AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1317

Introduced by Assembly Member Frazier

February 22, 2013

~~An act relating to state government.~~ *An act to amend Sections 30, 31, 101, 130, 149, 205, 1000, 8501, 8502, 8520, 8520.2, 8525, 8674, 8676, 10004, 10005, 10050, 10053, 10147, 10149, 10151.5, 10166.07, 10176.1, 10231.2, 10232.1, 10232.2, 10235.5, 10236.2, 10249.3, 10249.8, 10249.9, 10471, 10471.1, 10472, 11003.4, 11010, 11010.8, 11011, 11012, 11225, 11232, 11301, 11302, 11310, 11313, 19826, 19861, 19864, 19872, and 19881 of, and to repeal Sections 11313.2 and 19881.5 of, the Business and Professions Code, to amend Sections 912, 1675, 1798.3, 2985, 5240, and 5400 of the Civil Code, to amend Section 1218 of the Code of Civil Procedure, to amend Sections 14010, 14060.6, 25005, 28033, 29200 29503, 31004, and 31210 of, and to repeal Sections 25600, 25601, 25602, and 25603 of, the Corporations Code, to amend Sections 17444, 22001, 32282, 32282.5, 35296, 51264, 51266, 51266.5, 51269, 66210, 71095, and 94600 of the Education Code, to amend Sections 298 and 17520 of the Family Code, to amend Sections 125, 320, 2003, 4805.055, 4970, 5104, 5106, 12003, 14003, 14200.1, 14200.2, 17002, 17312, 17423.1, 18002, 18002.5, 22005, 23001, 30002, 30005, 31055, 50003, and 50702 of, to amend the heading of Chapter 3 (commencing with Section 300) of Division 1 of, to amend the heading of Article 2 (commencing with Section 320) of Chapter 3 of Division 1 of, and to repeal and add Sections 321, 351, and 371 of, the Financial Code, to amend Sections 1389, 2301, 3862, and 3863 of the Fish and Game Code, to amend Sections 3806, 4101.4, and 58509 of, and to repeal Section 11451.5 of, the Food and Agricultural Code, to amend Sections 179.7, 955.1, 3101, 3102, 6253.4,*

6254, 6254.23, 6276.26, 6276.38, 7465, 8550, 8570.5, 8574.17, 8574.20, 8574.21, 8574.22, 8575, 8584.1, 8585, 8585.05, 8585.1, 8585.2, 8585.5, 8585.7, 8586, 8587.7, 8588, 8588.1, 8588.2, 8588.3, 8588.5, 8588.7, 8588.10, 8588.11, 8588.15, 8589, 8589.1, 8589.2, 8589.5, 8589.6, 8589.7, 8589.9, 8589.10, 8589.11, 8589.12, 8589.13, 8589.14, 8589.15, 8589.16, 8589.17, 8589.18, 8589.19, 8589.20, 8589.21, 8590.1, 8590.2, 8590.3, 8590.4, 8591, 8592.1, 8592.5, 8592.7, 8593, 8593.1, 8593.2, 8593.6, 8596, 8599, 8600, 8607, 8607.2, 8608, 8610, 8610.3, 8610.5, 8612, 8613, 8614, 8639, 8649, 8651, 8657, 8657.5, 8670.20, 8670.25.5, 8670.26, 8670.64, 8680.7, 8682, 8682.2, 8682.6, 8682.8, 8682.9, 8685, 8685.2, 8685.4, 8685.6, 8685.8, 8686.2, 8686.3, 8686.4, 8686.8, 8687, 8687.2, 8687.4, 8687.7, 8692, 8696.5, 8697, 8697.5, 8711, 8840, 8841, 8844, 8870.4, 8870.7, 8870.71, 8871.3, 8871.4, 8876.7, 8878.52, 8878.90, 8878.100, 8878.125, 8879.7, 8879.23, 8879.27, 8879.50, 8879.53, 8879.57, 8879.58, 8879.59, 8879.60, 8879.61, 8886, 11018.5, 11126, 11340.2, 11534, 11541, 11542, 11546, 11546.2, 11546.3, 11546.4, 11546.5, 11546.6, 11549, 11549.3, 11549.4, 11552, 12012.90, 12463.1, 12804.7, 13901, 13903, 13975.1, 13976, 13978.2, 13978.4, 13984, 13995.20, 13995.30, 13995.40, 13995.42, 13995.43, 13995.44, 13995.45, 13995.50, 13995.51, 13995.53, 13995.54, 13995.55, 13995.56, 13995.60, 13995.63, 13995.64, 13995.65, 13995.68, 13995.69, 13995.71, 13995.72, 13995.73, 13995.74, 13995.75, 13995.77, 13995.82, 13995.83, 13995.84, 13995.102, 13995.110, 13995.116, 14001, 14002.5, 14031.8, 14070, 14087, 14500, 14520, 14601, 14669.21, 14998.2, 15251, 15253, 15254, 15275, 15277, 15363.61, 15363.62, 15363.63, 15700, 15957, 16304.9, 18521, 19844.5, 20002, 26614, 51018, 53108.5, 53126.5, 53630.5, 54238.3, 63021, 63021.5, 65080.1, 65302, 65302.6, 66427.1, 66452.17, 66503, 66521, 66540.5, 66540.32, 91550, and 99503 of, to add Sections 12803.2, 12813.5, and 19815.25 to, to repeal Section 65037.1 of, and to repeal and add Section 13975 of, the Government Code, to amend Sections 32, 33, 50, 50.1, 50.2, 81.8, 85.2, and 1150 of, to add Section 30.5 to, and to repeal Sections 31 and 65.4 of, the Harbors and Navigation Code, to amend Sections 1596.867, 1797.132, 1797.150, 1797.151, 1797.152, 1797.153, 11998.1, 13071, 13073, 13140.5, 13143.9, 18603, 18901, 18917.5, 18920, 18922, 25169.7, 25197.2, 25210.6, 25270.8, 25299.1, 25359.4, 25404.3, 25501, 25502, 25503, 25503.1, 25503.3, 25503.4, 25503.5, 25503.9, 25505.2, 25507, 25507.1, 25509, 25517.5, 25520, 25531.2, 25545, 35805, 50093, 50150, 50151, 50153, 50154, 50452, 50462, 50661.5, 50900, 51005, 51614, 51624, 53524, 101080.2,

105215, 114650, 114655, 114660, 114790, 114820, 115280, 115295, 115340, 124174.2, and 130055 of, to amend the heading of Article 2 (commencing with Section 114660) of Chapter 4 of Part 9 of Division 104 of, the Health and Safety Code, to amend Sections 12406.5, 12414.31, 16020, and 16030 of the Insurance Code, to amend Sections 3211.91 and 4350 of the Labor Code, to amend Section 433.5 of the Military and Veterans Code, to amend Sections 273.82, 326.3, 326.5, 830.3, 830.11, 999c, 999j, 999k, 999n, 999p, 999r, 999s, 999v, 999x, 999y, 1174.2, 1191.21, 6241, 11160, 11160.1, 11161.2, 11171, 11174.34, 11501, 11502, 11504, 13100.1, 13800, 13820, 13821, 13823.2, 13823.3, 13823.4, 13823.5, 13823.6, 13823.9, 13823.12, 13823.13, 13823.15, 13823.16, 13823.17, 13825, 13826.62, 13830, 13833, 13835.2, 13835.6, 13835.7, 13835.10, 13836, 13836.1, 13843, 13844, 13846, 13847, 13847.2, 13851, 13854, 13861, 13864, 13881, 13897.2, 13897.3, 13901, 14111, 14112, 14113, 14117, 14118, 14119, 14120, 14121, and 14140 of the Penal Code, to amend Sections 12101, 12103, 12104, 12105, 12120, and 12121 of the Public Contract Code, to amend Sections 715, 2802, 2803, 2811, 2814, 2815, 3233, 5075.8, 5099.12, 10002, 25402.9, 25701, 25943, 29735, 30169, 30301, 36300, 40400, 42703, 43035, and 75121 of the Public Resources Code, to amend Sections 783, 883, 2774.5, 2872.5, 2892, 2892.1, 7551.1, 7551.3, 7661, 7662, 7663, 7665.1, 7665.2, 7665.3, 7665.4, 7673, 7718, 99212, 99243, 131242, 161003, 185020, and 185035 of the Public Utilities Code, to amend Sections 97.2, 19528, 41030, 41031, 41032, 41136.1, 41137, 41137.1, 41138, 41139, 41140, 41141, and 41142 of the Revenue and Taxation Code, to add Section 22.5 to the Streets and Highways Code, to amend Sections 165, 1500, 1505, 1808.51, 2100, 2109, 2901, 2902, 5066, 9706, 23112.5, and 34061 of the Vehicle Code, to amend Sections 128, 6025.6, 11910, 11910.1, 12994, 13271, 13272, and 79522 of the Water Code, and to amend Sections 1789, 9101, 9625, 14085.54, 18275.5, 18277, 18278, and 18278.5 of the Welfare and Institutions Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1317, as amended, Frazier. ~~Governor's Reorganization Plan No. 2 of 2012.~~ *State government operations.*

Existing law and the Governor's Reorganization Plan No. 2, effective July 3, 2012, and operative July 1, 2013, assigns and reorganizes the

functions of state government among executive officers and agencies by creating the following general agency structure in the executive branch: Business, Consumer Services and Housing; Government Operations; Corrections and Rehabilitation; Labor and Workforce Development; California Health and Human Services; Environmental Protection; Natural Resources; and Transportation.

This bill would enact the statutory changes necessary to reflect the changes in law made by the Governor's Reorganization Plan No. 2, and would also make additional conforming name changes to properly reflect the assignment and reorganization of the functions of state government among the newly established executive officers and agencies.

This bill would reallocate certain duties of abolished state entities and officers to established state entities and officers, including, but not limited to, reallocating specified duties of the abolished Business, Transportation and Housing Agency and its secretary to the created Transportation Agency and its Secretary of Transportation, and the duties of the abolished Commissioner of Corporations to the Commissioner of Business Oversight, as specified.

This bill would become operative, like the Governor's Reorganization Plan No. 2, on July 1, 2013, except as specifically provided.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law and the Governor's Reorganization Plan No. 2 of 2012 (GRP 2), as of July 1, 2013, among other things, reorganizes state government into the following agencies: Business, Consumer Services and Housing, Government Operations, Corrections and Rehabilitation, Labor and Workforce Development, California Health and Human Services, Environmental Protection, Natural Resources, and Transportation.~~

~~This bill would state the intent of the Legislature to enact legislation to codify the provisions of GRP 2 and make technical conforming changes.~~

Vote: ~~majority~~ *2/3*. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 30 of the Business and Professions Code*
2 *is amended to read:*

30. (a) Notwithstanding any other ~~provision of~~ law, any board, as defined in Section 22, and the State Bar and the ~~Department of Real Estate~~ *Bureau of Real Estate* shall at the time of issuance of the license require that the licensee provide its federal employer identification number, if the licensee is a partnership, or his or her social security number for all others.

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board may not process any application for an original license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the entity is a partnership or social security number for all others.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) “Licensee” means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) “License” includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the ~~Department of Real Estate~~ *Bureau of Real Estate*.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(*l*) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the ~~Department of Real Estate~~ *Bureau of Real Estate* shall at the time

of issuance of the license require that each licensee provide the social security number of each individual listed on the license and any person who qualifies the license. For the purposes of this subdivision, "licensee" means any entity that is issued a license by any board, as defined in Section 22, the State Bar, the ~~Department of Real Estate~~ *Bureau of Real Estate*, and the Department of Motor Vehicles.

SEC. 2. Section 31 of the Business and Professions Code is amended to read:

31. (a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the ~~Department of Real Estate~~ *Bureau of Real Estate*, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

SEC. 3. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of *the following*:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary Education.

(*l*) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

(m) The Board of Registered Nursing.

(n) The Board of Behavioral Sciences.

(o) The State Athletic Commission.

(p) The Cemetery and Funeral Bureau.

(q) The State Board of Guide Dogs for the Blind.

(r) The Bureau of Security and Investigative Services.

(s) The Court Reporters Board of California.

(t) The Board of Vocational Nursing and Psychiatric Technicians.

(u) The Landscape Architects Technical Committee.

(v) The Division of Investigation.

(w) The Bureau of Automotive Repair.

(x) The Respiratory Care Board of California.

(y) The Acupuncture Board.

(z) The Board of Psychology.

(aa) The California Board of Podiatric Medicine.

(ab) The Physical Therapy Board of California.

(ac) The Arbitration Review Program.

(ad) The Physician Assistant Committee.

(ae) The Speech-Language Pathology and Audiology Board.

(af) The California Board of Occupational Therapy.

(ag) The Osteopathic Medical Board of California.

(ah) The Naturopathic Medicine Committee.

(ai) The Dental Hygiene Committee of California.

(aj) The Professional Fiduciaries Bureau.

(ak) The State Board of Chiropractic Examiners.

(al) The Bureau of Real Estate.

(am) The Bureau of Real Estate Appraisers.

(an) The Structural Pest Control Board.

~~(ak)~~

(ao) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 4. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other ~~provision of~~ law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

(1) The Medical Board of California.

(2) The California Board of Podiatric Medicine.

(3) The Physical Therapy Board of California.

(4) The Board of Registered Nursing, except as provided in subdivision (c) of Section 2703.

(5) The Board of Vocational Nursing and Psychiatric Technicians.

(6) The State Board of Optometry.

(7) The California State Board of Pharmacy.

(8) The Veterinary Medical Board.

(9) The California Architects Board.

(10) The Landscape Architect Technical Committee.

(11) The Board for Professional Engineers and Land Surveyors.

(12) The Contractors' State License Board.

(13) The State Board of Guide Dogs for the Blind.

(14) The Board of Behavioral Sciences.

(15) The Court Reporters Board of California.

(16) The State Athletic Commission.

(17) The Osteopathic Medical Board of California.

(18) The Respiratory Care Board of California.

(19) The Acupuncture Board.

(20) The Board of Psychology.

(21) The Structural Pest Control Board.

SEC. 5. Section 149 of the Business and Professions Code is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

(1) The Bureau of Barbering and Cosmetology.

(2) The Cemetery and Funeral Bureau.

(3) The Veterinary Medical Board.

(4) The Landscape Architects Technical Committee.

(5) The California Board of Podiatric Medicine.

(6) The Respiratory Care Board of California.

(7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

(8) The Bureau of Security and Investigative Services.

(9) The Bureau of Automotive Repair.

(10) The California Architects Board.

(11) The Speech-Language Pathology and Audiology Board.
(12) The Board for Professional Engineers and Land Surveyors.
(13) The Board of Behavioral Sciences.
(14) The Structural Pest Control Board ~~within the Department of Pesticide Regulation~~.
(15) The Acupuncture Board.
(16) The Board of Psychology.
(17) The California Board of Accountancy.
(18) The Naturopathic Medicine Committee.
(19) The Physical Therapy Board of California.
(20) The Bureau for Private Postsecondary Education.

SEC. 6. Section 205 of the Business and Professions Code is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:
(1) Accountancy Fund.
(2) California Architects Board Fund.
(3) Athletic Commission Fund.
(4) Barbering and Cosmetology Contingent Fund.
(5) Cemetery Fund.
(6) Contractors' License Fund.
(7) State Dentistry Fund.
(8) State Funeral Directors and Embalmers Fund.
(9) Guide Dogs for the Blind Fund.
(10) Home Furnishings and Thermal Insulation Fund.
(11) California Architects Board-Landscape Architects Fund.
(12) Contingent Fund of the Medical Board of California.
(13) Optometry Fund.
(14) Pharmacy Board Contingent Fund.
(15) Physical Therapy Fund.
(16) Private Investigator Fund.
(17) Professional Engineer's and Land Surveyor's Fund.
(18) Consumer Affairs Fund.
(19) Behavioral Sciences Fund.
(20) Licensed Midwifery Fund.
(21) Court Reporters' Fund.
(22) Veterinary Medical Board Contingent Fund.
(23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.

(24) Electronic and Appliance Repair Fund.

(25) Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund.

(26) Dispensing Opticians Fund.

(27) Acupuncture Fund.

(28) Physician Assistant Fund.

(29) Board of Podiatric Medicine Fund.

(30) Psychology Fund.

(31) Respiratory Care Fund.

(32) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

(33) Board of Registered Nursing Fund.

(34) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.

(35) Animal Health Technician Examining Committee Fund.

(36) State Dental Hygiene Fund.

(37) State Dental Assistant Fund.

(38) Structural Pest Control Fund.

(39) Structural Pest Control Eradication and Enforcement Fund.

(40) Structural Pest Control Research Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 7. Section 1000 of the Business and Professions Code is amended to read:

1000. *(a)* The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

(b) The State Board of Chiropractic Examiners is within the Department of Consumer Affairs.

SEC. 8. Section 8501 of the Business and Professions Code is amended to read:

8501. "Director" refers to the Director of ~~Pesticide Regulation~~ *Consumer Affairs*.

SEC. 9. Section 8502 of the Business and Professions Code is amended to read:

8502. "Board" refers to the Structural Pest Control Board within the Department of ~~Pesticide Regulation~~ *Consumers Affairs*.

SEC. 10. Section 8520 of the Business and Professions Code is amended to read:

8520. (a) There is in the Department of ~~Pesticide Regulation~~ *Consumer Affairs* a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division ~~6 (commencing with Section 11401) of the Food and Agricultural Code~~ *1 (commencing with Section 100)*, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 11. Section 8520.2 of the Business and Professions Code is amended to read:

8520.2. (a) The Structural Pest Control Board is hereby transferred from the jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide Regulation* and placed under the jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

(b) The registrar of the board under the jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide Regulation* shall remain as the registrar of the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

(c) The members appointed to the board while under the jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide Regulation* shall remain as members of the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

(d) All employees of the board under the jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide Regulation* are hereby

transferred to the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

(e) The duties, powers, purposes, responsibilities, and jurisdictions of the board under the jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide Regulation* shall remain with the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

(f) For the performance of the duties and the exercise of the powers vested in the board under this chapter, the board shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the board formerly within the jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide Regulation*.

(g) Any reference to the board in this chapter or in any other provision of law or regulation shall be construed as a reference to the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

SEC. 12. Section 8525 of the Business and Professions Code is amended to read:

8525. *(a)* The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

(b) The board shall consult with the Department of Pesticide Regulation when developing or adopting regulations that may affect the Department of Pesticide Regulation or a county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12500) of the Food and Agricultural Code.

SEC. 13. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than fifteen dollars ($15).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than fifteen dollars ($15).

(*l*) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An activity form fee, per property address, of not more than three dollars ($3).

(o) A fee for certifying a copy of an activity form of not more than three dollars ($3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(r) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp purchased from the board. Notwithstanding any other

provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of ~~Pesticide Regulation~~ *Consumer Affairs* that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of ~~Pesticide Regulation~~ *Consumer Affairs*. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of ~~Pesticide Regulation~~ *Consumer Affairs* shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of

California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

SEC. 14. Section 8676 of the Business and Professions Code is amended to read:

8676. The Department of ~~Pesticide Regulation~~ *Consumer Affairs* shall receive and account for all moneys collected under this chapter at the end of each month, and shall pay it into the Treasury to the credit of the Structural Pest Control Fund, which is hereby continued in existence.

The moneys in this fund shall be expended for the pro rata cost of administration of the Department of ~~Pesticide Regulation~~ *Consumer Affairs* and for the purpose of carrying out the provisions of this chapter.

SEC. 15. Section 10004 of the Business and Professions Code is amended to read:

10004. ~~"Department"~~ *"Bureau"* means the ~~Department~~ *Bureau* of Real Estate in the ~~Business, Transportation and Housing Agency~~ *Department of Consumer Affairs*.

SEC. 16. Section 10005 of the Business and Professions Code is amended to read:

10005. Whenever the terms *"bureau,"* "division," *"department," "Department of Real Estate,"* "State Real Estate Division," or "Real Estate Division" are used in this division, they mean the ~~Department~~ *Bureau* of Real Estate.

Whenever the terms *"Department of Real Estate,"* " State Real Estate ~~Division"~~ *Division,"* or " Real Estate Division" are used in any other law, they mean the ~~Department~~ *Bureau* of Real Estate.

SEC. 17. Section 10050 of the Business and Professions Code is amended to read:

10050. *(a)* There is in the ~~Business and Transportation Agency~~ *Department of Consumer Affairs* a ~~Department~~ *Bureau* of Real Estate, the chief officer of which ~~department~~ *bureau* is named the Real Estate Commissioner.

~~It~~

(b) It shall be the principal responsibility of the commissioner to enforce all laws in this part (commencing with Section 10000) and Chapter 1 (commencing with Section 11000) of Part 2 of this division in a manner ~~which~~ *that* achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

(c) Wherever the term "commissioner" is used in this division, it means the Real Estate Commissioner.

SEC. 18. Section 10053 of the Business and Professions Code is amended to read:

10053. The commissioner shall receive an annual salary as provided in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, to be paid monthly out of the State Treasury upon a warrant of the Controller, and shall be allowed his *or her* actual and necessary expenses in the discharge of his *or her* duties.

SEC. 19. Section 10147 of the Business and Professions Code is amended to read:

10147. (a) On or before January 1, 1993, the Seismic Safety Commission shall develop, adopt, and publish a Commercial Property Owner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.9 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the Seismic Safety Commission shall consult with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Division of Mines and Geology of the Department of Conservation, the ~~Department of Real Estate~~ *Bureau of Real Estate*, and other interested agencies and persons.

(c) The commission shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the

guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The commission shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions in the state.

(2) Explanations of typical structural and nonstructural earthquake hazards.

(3) Recommendations for mitigating the hazards of an earthquake, including references and explanations of what constitutes "adequate wall anchorage" as defined in Section 8893.1 of the Government Code.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the commission shall confer with insurers and design professional associations.

(5) Notice of the obligation to post a sign as required by Section 8875.8 of the Government Code.

SEC. 20. Section 10149 of the Business and Professions Code is amended to read:

10149. (a) On or before July 1, 1992, the Seismic Safety Commission shall develop, adopt, and publish a Homeowner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.8 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the Seismic Safety Commission shall consult with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Division of Mines and Geology of the Department of Conservation, the ~~Department of Real Estate~~ *Bureau of Real Estate*, and other interested agencies and persons.

(c) The commission shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the

effectiveness of the guide. The commission shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions for all areas of the state.

(2) Explanations of the related structural and nonstructural hazards.

(3) Recommendations for mitigating the hazards of an earthquake.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the commission shall confer with insurers and design professional associations.

SEC. 21. Section 10151.5 of the Business and Professions Code is amended to read:

10151.5. (a) An applicant who is not a resident of this state shall be eligible for a real estate license provided (1) the applicant qualifies for licensure under this chapter, including Section 10162, and (2) the state or other jurisdiction that is the place of residence of the applicant permits a resident of California to qualify for and obtain a real estate license in that jurisdiction.

(b) A foreign corporation shall be exempt from the eligibility requirement set forth in clause (2) of subdivision (a) if, and for so long as, at least one of the officers of the corporation who is designated and licensed as a real estate broker pursuant to Section 10158 or 10211 is a resident of this state.

(c) Every nonresident applicant for a real estate license shall, along with his or her application, file with the Real Estate Commissioner an irrevocable consent that if in any action commenced against him or her in this state, personal service of process upon him or her cannot be made in this state after the exercise of due diligence, a valid service may thereupon be made upon the applicant by delivering the process to the ~~Department of Real Estate~~ *Bureau of Real Estate*.

SEC. 22. Section 10166.07 of the Business and Professions Code is amended to read:

10166.07. (a) A real estate broker who acts pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131, and who makes, arranges, or services one or more loans in a calendar year that are secured by real property containing one to four residential units, shall annually file a business activities report, within 90 days after the end of the broker's fiscal year or within any additional time as the commissioner may allow for filing for good cause. The report shall contain within its scope all of the following information for the fiscal year, relative to the business activities of the broker and those of any other brokers and real estate salespersons acting under that broker's supervision:

(1) Name and license number of the supervising broker and names and license numbers of the real estate brokers and salespersons under that broker's supervision. The report shall include brokers and salespersons who were under the supervising broker's supervision for all or part of the year.

(2) A list of the real estate-related activities in which the supervising broker and the brokers and salespersons under his or her supervision engaged during the prior year. This listing shall identify all of the following:

(A) Activities relating to mortgages, including arranging, making, or servicing.

(B) Other activities performed under the real estate broker's or salesperson's license.

(C) Activities performed under related licenses, including, but not limited to, a license to engage as a finance lender or a finance broker under the California Finance Lenders Law (Division 9 (commencing with Section 22000) of the Financial Code), or a license to engage as a residential mortgage lender or residential mortgage loan servicer under the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code).

(3) A list of the forms of media used by the broker and those under his or her supervision to advertise to the public, including print, radio, television, the Internet, or other means.

(4) For fixed rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest interest rate, highest interest rate, and a list of the institutional lenders of record. If the loan was funded by any lender other than

an institutional lender, the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which ~~Department of Real Estate~~ *Bureau of Real Estate* form RE Form 885 or an equivalent is required.

(5) For adjustable rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest beginning interest rate, highest beginning interest rate, highest margin, and a list of the institutional lenders of record. If the loan was funded by any lender other than an institutional lender, the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which ~~Department of Real Estate~~ *Bureau of Real Estate* form RE Form 885 or an equivalent is required.

(6) For all loans made, brokered, or serviced, the total number and aggregate principal amount of loans funded by institutional lenders, and the total number and aggregate principal amount of loans funded by private lenders.

(7) For all loans made, brokered, or serviced, the total number and aggregate principal amount of loans that included a prepayment penalty, the minimum prepayment penalty length, the maximum prepayment penalty length, and the number of loans with prepayment penalties whose length exceeded the length of time before the borrower's loan payment amount could increase.

(8) For all loans brokered, the total compensation received by the broker, including yield spread premiums, commissions, and rebates, but excluding compensation used to pay fees for third-party services on behalf of the borrower.

(9) For all mortgage loans made or brokered, the total number of loans for which a mortgage loan disclosure statement was provided in a language other than English, and the number of forms provided per language other than English.

(10) For all mortgage loans serviced, the total amount of funds advanced to be applied toward a payment to protect the security of the note being serviced.

(11) For purposes of this section, an institutional lender has the meaning specified in paragraph (1) of subdivision (c) of Section 10232.

(b) A broker subject to this section and Section 10232.2 may file consolidated reports that include all of the information required under this section and Section 10232.2. Those consolidated reports shall clearly indicate that they are intended to satisfy the requirements of both sections.

(c) If a broker subject to this section fails to timely file the report required under this section, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the commissioner's cost within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of that license. The suspension or denial shall remain in effect until the billed amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the billed amount in any court of competent jurisdiction.

(d) The report described in this section is exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code.

(e) The commissioner may waive the requirement to submit certain information described in paragraphs (1) to (10), inclusive, of subdivision (a) if the commissioner determines that this information is duplicative of information required by the Nationwide Mortgage Licensing System and Registry, pursuant to Section 10166.08.

SEC. 23. Section 10176.1 of the Business and Professions Code is amended to read:

10176.1. (a) (1) Whenever the commissioner takes any enforcement or disciplinary action against a licensee, and the enforcement or disciplinary action is related to escrow services provided pursuant to paragraph (4) of subdivision (a) of Section 17006 of the Financial Code, upon the action becoming final the commissioner shall notify the Insurance Commissioner and the

Commissioner of ~~Corporations~~ *Business Oversight* of the action or actions taken. The purpose of this notification is to alert the departments that enforcement or disciplinary action has been taken, if the licensee seeks or obtains employment with entities regulated by the departments.

(2) The commissioner shall provide the Insurance Commissioner and the Commissioner of ~~Corporations~~ *Business Oversight*, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Insurance Commissioner or the Commissioner of ~~Corporations~~ *Business Oversight*, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Insurance Commissioner or the Commissioner of ~~Corporations~~ *Business Oversight* shall not be made public pursuant to this section. Notwithstanding any other provision of law, the disclosure of any underlying factual material to the Insurance Commissioner or the Commissioner of ~~Corporations~~ *Business Oversight* shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

(b) The commissioner shall establish and maintain, on the Web site maintained by the ~~Department of Real Estate~~ *Bureau of Real Estate*, a database of its licensees, including those who have been subject to any enforcement or disciplinary action that triggers the notification requirements of this section. The database shall also contain a direct link to the databases, described in Section 17423.1 of the Financial Code and Section 12414.31 of the Insurance Code and required to be maintained on the Web sites of the Department of Corporations and the Department of Insurance, respectively, of persons who have been subject to enforcement or disciplinary action for malfeasance or misconduct related to the escrow industry by the Insurance Commissioner and the Commissioner of ~~Corporations~~ *Business Oversight*.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State of California, the ~~Department of Real Estate~~ *Bureau of Real Estate*, the Real Estate Commissioner, any other state agency, or any officer, agent, employee, consultant, or contractor of the state, for the release of any false or unauthorized information pursuant to this section, unless the release of that information was done with knowledge

and malice, or for the failure to release any information pursuant to this section.

SEC. 24. Section 10231.2 of the Business and Professions Code is amended to read:

10231.2. (a) A real estate broker who, through express or implied representations that the broker or any salesperson acting on the broker's behalf is engaging in acts for which a real estate license is required by subdivision (d) or (e) of Section 10131, proposes to solicit and accept funds, or to cause the solicitation and acceptance of funds, to be applied to a purchase or loan transaction in which the broker will directly or indirectly obtain the use or benefit of the funds other than for commissions, fees, and costs and expenses as provided by law for the broker's services as an agent, shall, prior to the making of any representation, solicitation, or presentation of the statement described in subdivision (b), submit the following to the ~~Department of Real Estate~~ *Bureau of Real Estate*:

(1) A true copy of the statement described in subdivision (b) complete except for the signature of the prospective lender or purchaser.

(2) A statement that the submittal is being made to the ~~department~~ *bureau* pursuant to Section 10231.2.

(b) A broker making a solicitation pursuant to subdivision (a) shall deliver, or cause to be delivered, to the person solicited, the applicable completed statement described in Section 10232.5 not less than 24 hours before the earlier of the acceptance of any funds from that person by or on behalf of the broker or the execution of any instrument obligating the person to make the loan or purchase. The statement shall be signed by the prospective lender or purchaser and by the real estate broker or, on the broker's behalf, by a real estate salesperson licensed to the broker. When so executed, an exact copy of the executed statement shall be given to the prospective lender or purchaser, and the broker shall retain a true copy of the executed statement for a period of four years.

(c) None of the provisions of subdivision (a) or (b) shall apply in the case of an offering of a security authorized pursuant to applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section ~~25000~~ *25000)* of Title 4 of the Corporations Code).

(d) In the case of a solicitation by a corporate real estate broker, the provisions of subdivisions (a) and (b) shall apply if the funds solicited are intended for the direct or indirect use or benefit of an officer or director of the corporation or of a person with a 10 percent or greater ownership interest in the corporation.

SEC. 25. Section 10232.1 of the Business and Professions Code is amended to read:

10232.1. (a) A real estate broker, prior to the use of any proposed advertisement in connection with the conduct of activities described in subdivisions (d) and (e) of Section 10131 and Section 10131.1, may submit a true copy thereof to the ~~Department of Real Estate~~ *Bureau of Real Estate* for approval. The submission shall be accompanied by a fee of not more than forty dollars ($40). The commissioner shall by regulation prescribe the amount of the fee. If disapproval of the proposed advertisement is not communicated by the ~~department~~ *bureau* to the broker within 15 calendar days after receipt of the copy of the proposed advertisement by the ~~department~~ *bureau*, the proposed advertisement shall be deemed approved, but the ~~department~~ *bureau* shall not be precluded from disapproving a later publication or other use of the same or similar advertising.

The commissioner shall adopt regulations pertaining to the submittal and clearance of that advertising and establishing criteria for approval to ensure that the public will be protected against false or misleading representations.

Except as provided in subdivision (b), "advertisement" includes dissemination in any newspaper, circular, form letter, brochure or similar publication, display, sign, radio broadcast or telecast, which concerns (1) the use, terms, rates, conditions, or the amount of any loan or sale referred to in subdivisions (d) and (e) of Section 10131 or Section 10131.1 or (2) the security, solvency, or stability of any person carrying on the activities described in those sections.

(b) "Advertisement" does not include a letter or brochure that meets both of the following criteria:

(1) It is restricted in distribution to other real estate brokers and to persons for whom the broker has previously acted as an agent in arranging a loan secured by real property or in the purchase, sale, or exchange of a deed of trust or real property sales contract.

(2) It is restricted in content to the identification and a description of the terms of loans, mortgages, deeds of trust, real

property sales contracts, or any combination thereof offered for funding or purchase through the broker as agent.

(c) Subdivision (a) is not applicable to advertising that is used exclusively in connection with an offering authorized by permit issued pursuant to the applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section ~~25000~~ *25000)* of Title 4 of the Corporations Code).

(d) All advertising approvals shall be for a period of five years after the date of approval. The approval period applies to all advertising, including that which was previously submitted on a mandatory basis.

SEC. 26. Section 10232.2 of the Business and Professions Code is amended to read:

10232.2. A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the ~~Department of Real Estate~~ *Bureau of Real Estate* within 90 days after the end of the broker's fiscal year or within any additional time as the Real Estate Commissioner may allow for filing for good cause:

(a) The report of a review by a licensed California independent public accountant of trust fund financial statements, conducted in accordance with generally accepted accounting practices, which shall include within its scope the following information for the fiscal year relative to the business activities of the broker described in subdivisions (d) and (e) of Section 10131:

(1) The receipt and disposition of all funds of others to be applied to the making of loans and the purchasing of promissory notes or real property sales contracts.

(2) The receipt and disposition of all funds of others in connection with the servicing by the broker of the accounts of owners of promissory notes and real property sales contracts including installment payments and loan or contract payoffs by obligors.

(3) A statement as of the end of the fiscal year which shall include an itemized trust fund accounting of the broker and confirmation that the trust funds are on deposit in an account or accounts maintained by the broker in a financial institution.

(b) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year, accepted for the

benefit of a person to whom the broker is a trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the broker's fiscal year or, within any additional time as the commissioner may allow for a filing for good cause, a notarized statement under penalty of perjury on a form provided by the ~~department~~ *bureau* attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal year.

(c) A report of all of the following aspects of the business conducted by the broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1:

(1) Number and aggregate dollar amount of loan, trust deed sales and real property sales contract transactions negotiated.

(2) Number and aggregate dollar amount of promissory notes and contracts serviced by the broker or an affiliate of the broker.

(3) Number and aggregate dollar amount of late payment charges, prepayment penalties and other fees or charges collected and retained by the broker under servicing agreements with beneficiaries and obligees.

(4) Default and foreclosure experience in connection with promissory notes and contracts subject to servicing agreements between the broker and beneficiaries or obligees.

(5) Commissions received by the broker for services performed as agent in negotiating loans and sales of promissory notes and real property sales contracts.

(6) Aggregate costs and expenses as referred to in Section 10241 paid by borrowers to the broker.

(d) The commissioner shall adopt regulations prescribing the form and content of the report referred to in subdivision (c) with appropriate categories to afford a better understanding of the business conducted by the broker.

(e) If the broker fails to file either of the reports required under subdivisions (a) and (c) within the time permitted herein, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated

average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the above amount within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the above amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the above amount in any court of competent jurisdiction.

(f) The reports referred to in subdivisions (a) and (c) are exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code. The commissioner shall annually make and file as a public record, a composite of the annual reports and any comments thereon which are deemed to be in the public interest.

SEC. 27. Section 10235.5 of the Business and Professions Code is amended to read:

10235.5. (a) No real estate licensee or mortgage loan originator shall place an advertisement disseminated primarily in this state for a loan unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the ~~Department of Real Estate license~~ *Bureau of Real Estate* number and the unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry under which the loan would be made or arranged.

(b) "Mortgage loan originator," "unique identifier," and "Nationwide Mortgage Licensing System and Registry" have the meanings set forth in Section 10166.01.

SEC. 28. Section 10236.2 of the Business and Professions Code is amended to read:

10236.2. (a) A real estate broker who satisfies the criteria of subdivision (a) or (b) of Section 10232 and who fails to notify the ~~Department of Real Estate~~ *Bureau of Real Estate*, in writing, of that fact within 30 days thereafter as required by subdivision (e) of Section 10232 shall be assessed a penalty of fifty dollars ($50) per day for each additional day written notification has not been received up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day the penalty is one hundred dollars ($100) per day, not to exceed a total penalty of

ten thousand dollars ($10,000), regardless of the number of days, until the ~~department~~ *bureau* receives the written notification.

(b) The commissioner may suspend or revoke the license of any real estate broker who fails to pay a penalty imposed under this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of the penalty.

(c) All penalties paid or collected under this section shall be deposited into the Consumer Recovery Account of the Real Estate Fund.

SEC. 29. Section 10249.3 of the Business and Professions Code is amended to read:

10249.3. (a) The commissioner may by regulation prescribe filing fees in connection with registrations with the ~~department~~ *bureau* pursuant to the provisions of this article that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this article. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fee for an application for a registration with the ~~department~~ *bureau* pursuant to the provisions of this article shall not exceed the following for each subdivision or phase of the subdivision in which interests are to be offered for sale or lease:

(1) An application for an original registration: One hundred dollars ($100).

(2) An application for a renewal registration: One hundred dollars ($100).

(3) An application for an amended registration: One hundred dollars ($100).

(c) All fees collected by the ~~Department of Real Estate~~ *Bureau of Real Estate* under authority of this article shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. All fees received by the ~~department~~ *bureau* pursuant to the provisions of this article shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as a result of mistake or inadvertence.

SEC. 30. Section 10249.8 of the Business and Professions Code is amended to read:

10249.8. (a) Notwithstanding any provision to the contrary in Section 10249 or 11000, it is unlawful for a person, in this state, to sell or lease or offer for sale or lease lots, parcels, or interests in a subdivision, as defined in Section 10249.1, entirely located outside of this state but within the United States, unless any printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in at least 10-point type:

WARNING: THE CALIFORNIA ~~DEPARTMENT OF REAL ESTATE~~ *BUREAU OF REAL ESTATE* HAS NOT INSPECTED, EXAMINED, OR QUALIFIED THIS OFFERING.

(b) If an offer on property described in subdivision (a) is not initially made in writing, the disclaimer set forth in subdivision (c) shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(c) If a California resident is presented with an agreement or contract to lease or purchase any property described in subdivision (a), where an offer to lease or purchase that property was made to that resident in California, a copy of the disclaimer set forth in this subdivision shall be inserted in at least 10-point type at the top of the first page of that agreement or contract and shall be initialed by that California resident.

WARNING: THE CALIFORNIA ~~DEPARTMENT OF REAL ESTATE~~ *BUREAU OF REAL ESTATE* HAS NOT QUALIFIED, INSPECTED, OR EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE

OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS SUBDIVISION IS SITUATED.

SEC. 31. Section 10249.9 of the Business and Professions Code is amended to read:

10249.9. (a) Notwithstanding any provision to the contrary in Section 10249 or 11000, it is unlawful for a person, in this state, to sell or lease or offer for sale or lease a lot, parcel, or interest in a subdivision, located outside the United States, unless the printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in at least 10-point capital type:

WARNING: THE CALIFORNIA ~~DEPARTMENT OF REAL ESTATE~~ *BUREAU OF REAL ESTATE* HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE COUNTRY WHERE THIS SUBDIVISION IS SITUATED.

(b) If an offer on property described in subdivision (a) is not initially made in writing, the foregoing disclaimer shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror

or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(c) If any California resident is presented with an agreement or contract to lease or purchase a property described in subdivision (a), where an offer to lease or purchase that property was made to that resident in California, a copy of the disclaimer set forth in subdivision (a) shall be inserted in at least 10-point type at the top of the first page of that agreement or contract and shall be initialed by that California resident.

SEC. 32. Section 10471 of the Business and Professions Code is amended to read:

10471. (a) When an aggrieved person obtains (1) a final judgment in a court of competent jurisdiction, including, but not limited to, a criminal restitution order issued pursuant to subdivision (f) of Section 1202.4 of the Penal Code or Section 3663 of Title 18 of the United States Code, or (2) an arbitration award that includes findings of fact and conclusions of law rendered in accordance with the rules established by the American Arbitration Association or another recognized arbitration body, and in accordance with Sections 1281 to 1294.2, inclusive, of the Code of Civil Procedure where applicable, and where the arbitration award has been confirmed and reduced to judgment pursuant to Section 1287.4 of the Code of Civil Procedure, against a defendant based upon the defendant's fraud, misrepresentation, or deceit, made with intent to defraud, or conversion of trust funds, arising directly out of any transaction in which the defendant, while licensed under this part, performed acts for which a real estate license was required, the aggrieved person may, upon the judgment becoming final, file an application with the ~~Department of Real Estate~~ *Bureau of Real Estate* for payment from the Consumer Recovery Account, within the limitations specified in Section 10474, of the amount unpaid on the judgment that represents an actual and direct loss to the claimant in the transaction. As used in this chapter, "court of competent jurisdiction" includes the federal courts, but does not include the courts of another state.

(b) The application shall be delivered in person or by certified mail to an office of the ~~department~~ *bureau* not later than one year after the judgment has become final.

(c) The application shall be made on a form prescribed by the ~~department~~ *bureau*, verified by the claimant, and shall include the following:

(1) The name and address of the claimant.

(2) If the claimant is represented by an attorney, the name, business address, and telephone number of the attorney.

(3) The identification of the judgment, the amount of the claim and an explanation of its computation.

(4) A detailed narrative statement of the facts in explanation of the allegations of the complaint upon which the underlying judgment is based.

(5) (A) Except as provided in subparagraph (B), a statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying judgment is based was prosecuted conscientiously and in good faith. As used in this section, "conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that the claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Consumer Recovery Account.

(B) For the purpose of an application based on a criminal restitution order, all of the following statements by the claimant:

(i) The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order.

(ii) The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order.

(iii) The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Consumer Recovery Account.

(6) The name and address of the judgment debtor or, if not known, the names and addresses of persons who may know the judgment debtor's present whereabouts.

(7) The following representations and information from the claimant:

(A) That he or she is not a spouse of the judgment debtor nor a personal representative of the spouse.

(B) That he or she has complied with all of the requirements of this chapter.

(C) That the judgment underlying the claim meets the requirements of subdivision (a).

(D) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(E) That he or she has diligently pursued collection efforts against all judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment.

(F) That the underlying judgment and debt have not been discharged in bankruptcy, or, in the case of a bankruptcy proceeding that is open at or after the time of the filing of the application, that the judgment and debt have been declared to be nondischargeable.

(G) That the application was mailed or delivered to the ~~department~~ *bureau* no later than one year after the underlying judgment became final.

(d) If the claimant is basing his or her application upon a judgment against a salesperson, and the claimant has not obtained a judgment against that salesperson's employing broker, if any, or has not diligently pursued the assets of that broker, the application shall be denied for failure to diligently pursue the assets of all other persons liable to the claimant in the transaction unless the claimant can demonstrate, by clear and convincing evidence, either that the salesperson was not employed by a broker at the time of the

transaction, or that the salesperson's employing broker would not have been liable to the claimant because the salesperson was acting outside the scope of his or her employment by the broker in the transaction.

(e) The application form shall include detailed instructions with respect to documentary evidence, pleadings, court rulings, the products of discovery in the underlying litigation, and a notice to the applicant of his or her obligation to protect the underlying judgment from discharge in bankruptcy, to be appended to the application.

(f) An application for payment from the Consumer Recovery Account that is based on a criminal restitution order shall comply with all of the requirements of this chapter. For the purpose of an application based on a criminal restitution order, the following terms have the following meanings:

(1) "Judgment" means the criminal restitution order.

(2) "Complaint" means the facts of the underlying transaction upon which the criminal restitution order is based.

(3) "Judgment debtor" means any defendant who is the subject of the criminal restitution order.

The amendments to this section made at the July 1997–98 Regular Session shall become operative July 1, 2000.

SEC. 33. Section 10471.1 of the Business and Professions Code is amended to read:

10471.1. (a) The claimant shall serve a copy of the notice prescribed in subdivision (e) together with a copy of the application upon the judgment debtor by personal service, by certified mail, or by publication, as set forth in subdivision (b).

(b) If the judgment debtor holds an unexpired and unrevoked license issued by the ~~department~~ *bureau*, service of the notice and a copy of the application may be made by certified mail addressed to the judgment debtor at the latest business or residence address on file with the ~~department~~ *bureau*. If the judgment debtor does not hold an unexpired and unrevoked license issued by the ~~department~~ *bureau* and personal service cannot be effected through the exercise of reasonable diligence, the claimant shall serve the judgment debtor by one publication of the notice in each of two successive weeks in a newspaper of general circulation published in the county in which the judgment debtor was last known to reside.

(c) If the application is served upon the judgment debtor by certified mail, service is complete five days after mailing if the place of address is within the State of California, 10 days after mailing if the place of address is outside the State of California but within the United States, and 20 days after mailing if the place of address is outside the United States. Personal service is complete on the date of service. Service by publication is complete upon completion of the second week of publication.

(d) If a judgment debtor wishes to contest payment of an application by the commissioner, he or she shall mail or deliver a written response to the application addressed to the ~~department~~ *bureau* at its headquarters office within 30 days after service of the notice and application, and shall mail or deliver a copy of the response to the claimant. If a judgment debtor fails to mail or deliver a timely response, he or she shall have waived his or her right to present objections to payment.

(e) The notice served upon the judgment debtor shall include the following statement:

"NOTICE: Based upon a judgment entered against you in favor of _____ , application for payment from the Consumer
(name of claimant)
Recovery Account of the Real Estate Fund is being made to the ~~Department of Real Estate~~ *Bureau of Real Estate*.

"If payment is made from the Consumer Recovery Account, all licenses and license rights that you have under the Real Estate Law will be automatically suspended on the date of payment and cannot be reinstated until the Consumer Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

"If you wish to contest payment by the Real Estate Commissioner, you must file a written response to the application addressed to the ~~Department of Real Estate~~ *Bureau of Real Estate* at _____ within 30 days after mailing, delivery, or publication of this notice and mail or deliver a copy of that response to the claimant. If you fail to do so, you will have waived your right to present your objections to payment."

(f) If a judgment debtor fails to mail or deliver a written response to the application with the ~~department~~ *bureau* within 30 days after personal service, mailing, or final publication of the notice, the judgment debtor shall not thereafter be entitled to notice of any

action taken or proposed to be taken by the commissioner with respect to the application.

SEC. 34. Section 10472 of the Business and Professions Code is amended to read:

10472. (a) A claimant against whom the commissioner has rendered a decision denying an application pursuant to Section 10471 may, within six months after the mailing of the notice of the denial, file a verified application in superior court for an Order Directing Payment Out of the Consumer Recovery Account based upon the grounds set forth in the application to the commissioner. If the underlying judgment is a California state court judgment, the application shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the Superior Court of the County of Sacramento.

(b) A copy of the verified application shall be served upon the commissioner and upon the judgment debtor. A certificate or affidavit of service shall be filed by the claimant with the court. Service on the commissioner may be made by certified mail addressed to the headquarters office of the ~~department~~ *bureau*. Service upon a judgment debtor may be made in accordance with Section 10471.1. The notice served upon the judgment debtor shall read as follows:

"NOTICE: An application has been filed with the court for a payment from the Consumer Recovery Account that was previously denied by the Real Estate Commissioner.

"If the ~~Department of Real Estate~~ *Bureau of Real Estate* makes a payment from the Consumer Recovery Account pursuant to court order, all of your licenses and license rights under the Real Estate Law will be automatically suspended until the Consumer Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

"If you wish to defend in court against this application, you must file a written response with the court within 30 days after having been served with a copy of the application. If you do not file a written response, you will have waived your right to defend against the application."

SEC. 35. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A "limited-equity housing cooperative" or a "workforce housing cooperative trust" is a corporation that meets the criteria of Section 11003.2 and that also meets the criteria of Sections 817 and 817.1 of the Civil Code, as applicable. Except as provided in subdivision (b), a limited-equity housing or workforce housing cooperative trust shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative or a workforce housing cooperative trust shall be exempt from the requirements of this chapter if the limited-equity housing cooperative or workforce housing cooperative trust complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the United States Department of Agriculture, the National Consumers Cooperative Bank, the California Housing Finance Agency, the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Department of Housing and Community Development, or the Federal Home Loan Bank System or any of its member institutions, alone or in any combination with each other, or with the city, county, school district, or redevelopment agency in which the cooperative is located, directly finances or subsidizes at least 50 percent of the total construction or development cost or one hundred thousand dollars ($100,000), whichever is less; or the real property to be occupied by the cooperative was sold or leased by the ~~Department of Transportation~~ *Transportation Agency*, other state agency, a city, a county, or a school district for the development of the cooperative and has a regulatory agreement approved by the Department of Housing and Community Development for the term of the permanent financing, notwithstanding the source of the permanent subsidy or financing.

(2) No more than 20 percent of the total development cost of a limited-equity mobilehome park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.

(3) A regulatory agreement that covers the cooperative for a term of at least as long as the duration of the permanent financing or subsidy, notwithstanding the source of the permanent subsidy

or financing has been duly executed between the recipient of the financing and either (A) one of the federal or state agencies specified in paragraph (1) or (B) a local public agency that is providing financing for the project under a regulatory agreement meeting standards of the Department of Housing and Community Development. The regulatory agreement shall make provision for at least all of the following:

(A) Assurances for completion of the common areas and facilities to be owned or leased by the limited-equity housing cooperative, unless a construction agreement between the same parties contains written assurances for completion.

(B) Governing instruments for the organization and operation of the housing cooperative by the members.

(C) The ongoing fiscal management of the project by the cooperative, including an adequate budget, reserves, and provisions for maintenance and management.

(D) Distribution of a membership information report to any prospective purchaser of a membership share, prior to purchase of that share. The membership information report shall contain full disclosure of the financial obligations and responsibilities of cooperative membership, the resale of shares, the financing of the cooperative including any arrangements made with any partners, membership share accounts, occupancy restrictions, management arrangements, and any other information pertinent to the benefits, risks, and obligations of cooperative ownership.

(4) The federal, state, or local public agency that executes the regulatory agreement shall satisfy itself that the bylaws, articles of incorporation, occupancy agreement, subscription agreement, any lease of the regulated premises, any arrangement with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) The federal or state agency shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 817 of the Civil Code and the exemption provided by this section.

(c) Any limited-equity cooperative, or workforce housing cooperative trust that meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the ~~Department of Real Estate~~ *Bureau of Real Estate*, on a form provided by the ~~department~~ *bureau*, that an exemption is claimed under this section. The ~~Department of Real Estate~~ *Bureau of Real Estate* shall retain this form for at least four years for statistical purposes.

SEC. 36. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the ~~Department of Real Estate~~ *Bureau of Real Estate* an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the ~~department~~ *bureau*.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to

pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) A notice pursuant to Section 1102.6c of the Civil Code.

(12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the ~~department~~ *bureau* with the name, address, and telephone number of that district.

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances, if any, are associated with the

property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(15) A true statement of whether or not fill is used, or is proposed to be used, in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) If the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Website. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(18) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

SEC. 37. Section 11010.8 of the Business and Professions Code is amended to read:

11010.8. (a) The requirement that a notice of intention be filed pursuant to Section 11010 is not applicable to the purchase of a mobilehome park by a nonprofit corporation if all of the following occur:

(1) A majority of the shareholders or members of the nonprofit corporation constitute a majority of the homeowners of the mobilehome park, and a majority of the members of the board of

directors of the nonprofit corporation are homeowners of the mobilehome park.

(2) All members of the corporation are residents of the mobilehome park. Members of the nonprofit corporation may enter into leases with the corporation that are greater than five years in length. “Homeowners” or “residents” of the mobilehome park shall include a bona fide secured party who has, pursuant to a security interest in a membership, taken title to the membership by means of foreclosure, repossession, or voluntary repossession, and who is actively attempting to resell the membership to a prospective resident or homeowner of the mobilehome park, in accordance with subdivision (f) of Section 7312 of the Corporations Code.

(3) A permit to issue securities under Section 25113 of the Corporations Code is obtained from the ~~Department of Corporations~~ *Department of Business Oversight, Division of Corporations*. In the case of a nonissuer transaction (as defined by Section 25011 of the Corporations Code) involving the offer to resell or the resale of memberships by a bona fide secured party as described in paragraph (2) of this section, a permit is not required where the transaction is exempt from the qualification requirements of Section 25130 of the Corporations Code pursuant to subdivision (e) of Section 25104 of the Corporations Code. The exemption from qualification pursuant to subdivision (e) of Section 25104 of the Corporations Code available to a bona fide secured party does not eliminate the requirement of this section that the nonprofit corporation shall either file a notice of intention pursuant to Section 11010 or obtain a permit pursuant to Section 25113 of the Corporations Code.

(4) All funds of tenants for the purchase of the mobilehome park are deposited in escrow until the document transferring title of the mobilehome park to the nonprofit corporation is recorded. The escrow also shall include funds of homeowners that shall be available to the homeowners association nonprofit corporation for payment of any and all costs reasonably associated with the processing and conversion of the mobilehome park into condominium interests. Payment of these costs may be made from the funds deposited in escrow prior to the close of escrow upon the direction of the homeowners association nonprofit corporation.

(b) The funds described by paragraph (4) of subdivision (a), or any other funds subsequently received from tenants for purposes other than the purchase of a separate subdivided interest in any portion of the mobilehome park, are not subject to the requirements of Section 11013.1, 11013.2, or 11013.4.

SEC. 38. Section 11011 of the Business and Professions Code is amended to read:

11011. (a) The commissioner may by regulation prescribe filing fees in connection with applications to the ~~Department of Real Estate~~ *Bureau of Real Estate* pursuant to this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fee for an application for a public report to be issued under authority of this chapter shall not exceed the following for each subdivision or phase of a subdivision in which interests are to be offered for sale or lease:

(1) A notice of intention without a completed questionnaire: One hundred fifty dollars ($150).

(2) An original public report for subdivision interests described in Section 11004.5: One thousand seven hundred dollars ($1,700) plus ten dollars ($10) for each subdivision interest to be offered.

(3) An original public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars ($600) plus ten dollars ($10) for each subdivision interest to be offered.

(4) A conditional public report for subdivision interests described in Section 11004.5: Five hundred dollars ($500).

(5) A conditional public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500).

(6) A preliminary public report for subdivision interests described in Section 11004.5: Five hundred dollars ($500).

(7) A preliminary public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500).

(8) A renewal public report for subdivision interests described in Section 11004.5: Six hundred dollars ($600).

(9) A renewal public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars ($600).

(10) An amended public report for subdivision interests described in Section 11004.5: Five hundred dollars ($500) plus ten dollars ($10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(11) An amended public report to offer subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500) plus ten dollars ($10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(c) The filing fee to review a declaration as described in Section 11010.10 shall not exceed two hundred dollars ($200).

(d) The actual subdivision fees established by regulation under authority of this section and Section 10249.3 shall not exceed the amount reasonably required by the ~~department~~ *bureau* to administer this part and Article 8 (commencing with Section 10249) of Chapter 3 of Part 1.

(e) All fees collected by the ~~department~~ *bureau* under authority of this chapter shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. All fees received by the ~~department~~ *bureau* pursuant to this chapter shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as the result of a mistake or inadvertence.

This section shall remain in effect unless it is superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

SEC. 39. Section 11012 of the Business and Professions Code is amended to read:

11012. It is unlawful for the owner, his agent, or subdivider, of the project, after it is submitted to the ~~Department of Real Estate~~ *Bureau of Real Estate*, to materially change the setup of such offering without first notifying the ~~Department of Real Estate~~ *bureau* in writing of such intended change. This section only applies to those changes of which the owner, his agent, or subdivider has knowledge or constructive knowledge.

SEC. 40. Section 11225 of the Business and Professions Code is amended to read:

11225. A person shall not be required to register a time-share plan with the commissioner pursuant to this chapter if any of the following applies:

(a) The person is an owner of a time-share interest who has acquired the time-share interest for the person's own use and occupancy and who later offers it for resale.

(b) The person is a managing entity or an association that is not otherwise a developer of a time-share plan in its own right, solely while acting as an association or under a contract with an association to offer or sell a time-share interest transferred to the association through foreclosure, deed in lieu of foreclosure, or gratuitous transfer, if these acts are performed in the regular course of, or as an incident to, the management of the association for its own account in the time-share plan. Notwithstanding the exemption from registration, the association or managing entity shall provide each purchaser of a time-share interest covered by this subdivision a copy of the time-share instruments, a copy of the then-current budget, a written statement of the then-current assessment amounts, and shall provide the purchaser the opportunity to rescind the purchase within seven days after receipt of these documents. Immediately prior to the space reserved in the contract for the signature of the purchaser, the association or managing entity shall disclose, in conspicuous type, substantially the following notice of cancellation:

YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION WITHIN SEVEN CALENDAR DAYS OF RECEIPT OF THE PUBLIC REPORT OR AFTER THE DATE YOU SIGN THIS CONTRACT, WHICHEVER DATE IS LATER. IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE ASSOCIATION (OR MANAGING ENTITY) IN WRITING OF YOUR INTENT TO CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT TO (NAME OF ASSOCIATION OR MANAGING ENTITY) AT (ADDRESS OF ASSOCIATION OR MANAGING ENTITY). YOUR NOTICE OF CANCELLATION MAY ALSO BE SENT BY FACSIMILE TO (FACSIMILE NUMBER OF THE ASSOCIATION OR MANAGING ENTITY) OR BY HAND-DELIVERY. ANY ATTEMPT TO OBTAIN A WAIVER

OF YOUR CANCELLATION RIGHT IS VOID AND OF NO EFFECT.

(c) The person is conveyed, assigned, or transferred more than seven time-share interests from a developer in a single voluntary or involuntary transaction and subsequently conveys, assigns, or transfers all of the time-share interests received from the developer to a single purchaser in a single transaction.

(d) (1) The developer is offering or disposing of a time-share interest to a purchaser who has previously acquired a time-share interest from the same developer if the developer has a time-share plan registered under this chapter, which was originally approved by the commissioner within the preceding seven years, and the developer complies in all respects with the provisions of Section 11245, and, further, provides the purchaser with (A) a cancellation period of at least seven days, (B) all the time-share disclosure documents that are required to be provided to purchasers as if the sale occurred in the state or jurisdiction where the time-share property is located, and (C) the following disclaimer in conspicuous type:

WARNING: THE CALIFORNIA ~~DEPARTMENT OF REAL ESTATE~~ *BUREAU OF REAL ESTATE* HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

(2) By making such an offering or disposition, the person is deemed to consent to the jurisdiction of the commissioner in the

event of a dispute with the purchaser in connection with the offering or disposition.

(e) It is a single site time-share plan located outside of the boundaries of the United States or component site of a specific time-share interest multisite time-share plan located wholly outside of the boundaries of the United States, or a nonspecific time-share interest multisite time-share plan in which all component sites are located wholly outside of the boundaries of the United States. However, it is unlawful and a violation of this chapter for a person, in this state, to sell or lease or offer for sale or lease a time-share interest in such a time-share plan, located outside the United States, unless the printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in capital letters of at least 10-point type:

WARNING: THE CALIFORNIA ~~DEPARTMENT OF REAL ESTATE~~ *BUREAU OF REAL ESTATE* HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE COUNTRY WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

(1) If an offer of time-share interest in a time-share plan described in subdivision (e) is not initially made in writing, the foregoing disclaimer shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The

deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(2) If any California resident is presented with an agreement or purchase contract to lease or purchase a time-share interest as described in subdivision (e), where an offer to lease or purchase that time-share interest was made to that resident in California, a copy of the disclaimer set forth in subdivision (e) shall be inserted in at least 10-point type at the top of the first page of that agreement or purchase contract and shall be initialed by that California resident.

(3) ~~Nothing contained in this~~ *This* subdivision shall *not* be deemed to exempt from registration in this state a nonspecific time-share interest multisite time-share plan in which any component site in the time-share plan is located in the United States.

SEC. 41. Section 11232 of the Business and Professions Code is amended to read:

11232. (a) The commissioner may by regulation prescribe filing fees in connection with applications to the ~~Department of Real Estate~~ *Bureau of Real Estate* for a public report pursuant to the provisions of this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fees for an application for a public report to be issued under authority of this chapter shall not exceed the following for each time-share plan, location, or phase of the time-share plan in which interests are to be offered for sale or lease:

(1) One thousand seven hundred dollars ($1,700) plus ten dollars ($10) for each time-share interest to be offered for an original public report application.

(2) Six hundred dollars ($600) plus ten dollars ($10) for each time-share plan interest to be offered that was not permitted to be offered under the public report to be renewed for a renewal public report or permit application.

(3) Five hundred dollars ($500) plus ten dollars ($10) for each time-share interest to be offered under the amended public report for which a fee has not previously been paid for an amended public report application.

(4) Five hundred dollars ($500) for a conditional public report application.

(c) Fees collected by the commissioner under authority of this chapter shall be deposited into the Real Estate Fund pursuant to Chapter 6 (commencing with Section 10450) of Part 1. Fees received by the commissioner pursuant to this article shall be deemed earned upon receipt. ~~No part of any~~ *A* fee is *not* refundable unless the commissioner determines that it was paid as a result of mistake or inadvertency. This section shall remain in effect unless it is superseded pursuant to Section 10266 or subdivision (a) of Section 10266.5, whichever is applicable.

SEC. 42. Section 11301 of the Business and Professions Code is amended to read:

11301. *(a)* There is hereby created within the ~~Business, Transportation and Housing Agency an Office~~ *Department of Consumer Affairs a Bureau* of Real Estate Appraisers to administer and enforce this part.

(b) Whenever the term "Office of Real Estate Appraisers" appears in any other law, it means the "Bureau of Real Estate Appraisers."

SEC. 43. Section 11302 of the Business and Professions Code is amended to read:

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) ~~"Agency" means the Business, Transportation and Housing Agency.~~ *"Department" means the Department of Consumer Affairs.*

(b) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a

license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

(c) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(d) (1) "Appraisal management company" means any person or entity that satisfies all of the following conditions:

(A) Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant to this part, or employs 11 or more appraisers licensed or certified pursuant to this part.

(B) Receives requests for appraisals from one or more clients.

(C) For a fee paid by one or more of its clients, delegates appraisal assignments for completion by its independent contractor or employee appraisers.

(2) "Appraisal management company" does not include any of the following, when that person or entity directly contracts with an independent appraiser:

(A) Any bank, credit union, trust company, savings and loan association, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.

(B) Any finance lender or finance broker licensed pursuant to Division 9 (commencing with Section 22000) of the Financial Code, when acting under the authority of that license.

(C) Any residential mortgage lender or residential mortgage servicer licensed pursuant to Division 20 (commencing with Section 50000) of the Financial Code, when acting under the authority of that license.

(D) Any real estate broker licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, when acting under the authority of that license.

(3) "Appraisal management company" does not include any person licensed to practice law in this state who is working with or on behalf of a client of that person in connection with one or more appraisals for that client.

(e) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(f) "Controlling person" means one or more of the following:

(1) An officer or director of an appraisal management company, or an individual who holds a 10 percent or greater ownership interest in an appraisal management company.

(2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.

(3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

(g) "Director" *or "chief"* means the ~~Director~~ *Chief* of the ~~Office~~ *Bureau* of Real Estate Appraisers.

(h) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Home Loan Bank System, National Credit Union Administration, and any other agency determined by the director to have jurisdiction over transactions subject to this part.

(i) "Federally related real estate appraisal activity" means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing an appraisal as a result of that activity.

(j) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and which requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

(k) "License" means any license, certificate, permit, registration, or other means issued by the ~~office~~ *bureau* authorizing the person to whom it is issued to act pursuant to this part within this state.

(*l*) "Licensure" means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.

(m) "Office" *or "bureau"* means the ~~Office~~ *Bureau* of Real Estate Appraisers.

(n) "Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an appraisal management company.

~~(o) "Secretary" means the Secretary of Business, Transportation and Housing.~~

~~(p)~~

(o) "State licensed real estate appraiser" is a person who is issued and holds a current valid license under this part.

~~(q)~~

(p) "Uniform Standards of Professional Appraisal Practice" are the standards of professional appraisal practice established by the Appraisal Foundation.

~~(r)~~

(q) "Course provider" means a person or entity that provides educational courses related to professional appraisal practice.

SEC. 44. Section 11310 of the Business and Professions Code is amended to read:

11310. The Governor shall appoint, subject to confirmation by the Senate, the ~~Director~~ *Chief* of the ~~Office~~ *Bureau* of Real Estate Appraisers who shall, in consultation with the Governor and ~~secretary~~ *the Director of Consumer Affairs*, administer the licensing and certification program for real estate appraisers. In making the appointment, consideration shall be given to the qualifications of an individual that demonstrate knowledge of the real estate appraisal profession.

(a) The ~~director~~ *chief* shall serve at the pleasure of the Governor. The salary for the ~~director~~ *chief* shall be fixed and determined by the ~~secretary~~ *Director of Consumer Affairs* with approval of the Department of Human Resources.

(b) The ~~director~~ *chief* shall not be actively engaged in the appraisal business or any other affected industry for the term of

appointment, and thereafter the ~~director~~ *chief* shall be subject to Section 87406 of the Government Code.

(c) The ~~director~~ *chief*, in consultation with the ~~secretary~~ *Director of Consumer Affairs* and in accordance with the State Civil Service Act, may appoint and fix the compensation of legal, clerical, technical, investigation, and auditing personnel as may be necessary to carry out this part. All personnel shall perform their respective duties under the supervision and direction of the ~~director~~ *chief*.

(d) The ~~director~~ *chief* may appoint not more than four ~~deputy directors~~ *deputies* as he or she deems appropriate. The ~~deputy directors~~ *deputies* shall perform their respective duties under the supervision and direction of the ~~director~~ *chief*.

(e) Every power granted to or duty imposed upon the ~~director~~ *chief* under this part may be exercised or performed in the name of the ~~director~~ *chief* by the ~~deputy directors~~ *deputies*, subject to conditions and limitations as the ~~director~~ *chief* may prescribe.

SEC. 45. Section 11313 of the Business and Professions Code is amended to read:

11313. The ~~office~~ *bureau* is under the supervision and control of the ~~secretary~~ *Director of Consumer Affairs*. The duty of enforcing and administering this part is vested in the ~~director~~ *chief*, and he or she is responsible to the ~~secretary~~ *Director of Consumer Affairs* therefor. The ~~director~~ *chief* shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. *Regulations adopted by the former Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and its licensees.*

SEC. 46. Section 11313.2 of the Business and Professions Code is repealed.

~~11313.2. (a) The secretary shall review and evaluate the office, and make recommendations to the Legislature by October 1, 2014, regarding whether the office should be consolidated within the Department of Real Estate, or consolidated within any other state department or office, and shall provide appropriate justification for that recommendation.~~

~~(b) Notwithstanding any other provision of law, on and after January 1, 2015, the office shall be subject to review by the~~

~~appropriate policy committees of the Legislature. The review shall include, but shall not be limited to, the recommendations of the secretary regarding the office.~~

SEC. 47. Section 19826 of the Business and Professions Code is amended to read:

19826. The department *shall perform all investigatory functions required by this chapter, as well as auditing functions under tribal gaming compacts, and* shall have all of the following responsibilities:

(a) To *receive and process applications for any license, permit, or other approval, and to collect all related fees. The department shall* investigate the qualifications of applicants before any license, permit, or other approval is issued, and ~~to~~ investigate any request to the commission for any approval that may be required pursuant to this chapter. The department may recommend the denial or the limitation, conditioning, or restriction of any license, permit, or other approval.

(b) To monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by, and that there is no direct or indirect material involvement with, a gambling operation or holding company by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(c) To investigate suspected violations of this chapter or laws of this state relating to gambling, including any activity prohibited by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(d) To investigate complaints that are lodged against licensees, or other persons associated with a gambling operation, by members of the public.

(e) To initiate, where appropriate, disciplinary actions as provided in this chapter. In connection with any disciplinary action, the department may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.

(f) To adopt regulations reasonably related to its functions and duties as specified in this chapter.

(g) Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played. The department shall make available to the public the rules of play and the collection rates of each gaming activity approved for play at each gambling establishment on the Attorney General's Web site. Actual costs incurred by the department to review and approve game rules shall be reimbursed to the department by the licensee making the request.

SEC. 48. Section 19861 of the Business and Professions Code is amended to read:

19861. Notwithstanding subdivision (i) of Section 19801, the commission shall not deny a license to a gambling establishment solely because it is not open to the public, provided that all of the following are true: (a) the gambling establishment is situated in a local jurisdiction that has an ordinance allowing only private clubs, and the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and met all applicable state and local gaming registration requirements; (b) the gambling establishment consists of no more than five gaming tables; (c) video recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed-circuit television cameras, and these recordings are retained for a period of 30 days and are made available for review by the department ~~or commission~~ upon request; and (d) the gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997.

A gambling establishment meeting these criteria, in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until November 30, 2003, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19961 and 19962, authorizing the operation of gambling establishments that are open to the public. The ~~commission~~ *department* shall adopt regulations implementing this section. Prior to the ~~commission's~~ *department's*

issuance of a license to a private club, the department shall ensure that the ownership of the gambling establishment has remained constant since January 1, 1998, and the operation of the gambling establishment has not been leased to any third party.

SEC. 49. Section 19864 of the Business and Professions Code is amended to read:

19864. (a) Application for a state license or other commission action shall be ~~made~~ *submitted to the department* on forms furnished by the ~~commission~~ *department*.

(b) The application for a gambling license shall include all of the following:

(1) The name of the proposed licensee.

(2) The name and location of the proposed gambling establishment.

(3) The gambling games proposed to be conducted.

(4) The names of all persons directly or indirectly interested in the business and the nature of the interest.

(5) A description of the proposed gambling establishment and operation.

(6) Any other information and details the ~~commission~~ *department* may require in order to discharge its ~~duty~~ *duties* properly.

SEC. 50. Section 19872 of the Business and Professions Code is amended to read:

19872. (a) No member of the commission may communicate ex parte, directly or indirectly, with any applicant, or any agent, representative, or person acting on behalf of an applicant, upon the merits of an application for a license, permit, registration, or approval while the application is *being investigated by the department or* pending disposition before the department or the commission.

(b) No applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application while the application is *being investigated by the department or* pending disposition before the department.

(c) No employee or agent of the department, applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application, while the application is pending disposition before the commission.

(d) The receipt by a member of the commission of an ex parte communication prohibited by this section may provide the basis for disqualification of that member or the denial of the application. The commission shall adopt regulations to implement this subdivision.

(e) For the purposes of this subdivision, "ex parte" means a communication without notice and opportunity for all parties to participate in the communication.

(f) Nothing in this section precludes a communication made on the record at a public hearing on a properly agendized matter.

SEC. 51. Section 19881 of the Business and Professions Code is amended to read:

19881. (a) ~~No~~ *A* corporation is *not* eligible to receive a license to own a gambling enterprise unless the conduct of controlled gambling is among the purposes stated in its articles of incorporation and the articles of incorporation have been submitted to and approved by the ~~commission~~ *department*.

(b) The Secretary of State shall not accept for filing any articles of incorporation of any corporation that include as a stated purpose the conduct of controlled gambling, or any amendment thereto, or any amendment that adds this purpose to articles of incorporation already filed, unless the articles have, or amendment has, been approved by the ~~commission~~ *department*.

SEC. 52. Section 19881.5 of the Business and Professions Code is repealed.

~~19881.5. The commission may delegate to staff the approval of articles of incorporation, statements of limited partnership, and other entity filings that are required to specifically state that gambling is one of the purposes for which the business entity is formed.~~

SEC. 53. Section 912 of the Civil Code is amended to read:

912. A builder shall do all of the following:

(a) Within 30 days of a written request by a homeowner or his or her legal representative, the builder shall provide copies of all relevant plans, specifications, mass or rough grading plans, final soils reports, ~~Department of Real Estate~~ *Bureau of Real Estate* public reports, and available engineering calculations, that pertain to a homeowner's residence specifically or as part of a larger development tract. The request shall be honored if it states that it is made relative to structural, fire safety, or soils provisions of this title. However, a builder is not obligated to provide a copying service, and reasonable copying costs shall be borne by the requesting party. A builder may require that the documents be copied onsite by the requesting party, except that the homeowner may, at his or her option, use his or her own copying service, which may include an offsite copy facility that is bonded and insured. If a builder can show that the builder maintained the documents, but that they later became unavailable due to loss or destruction that was not the fault of the builder, the builder may be excused from the requirements of this subdivision, in which case the builder shall act with reasonable diligence to assist the homeowner in obtaining those documents from any applicable government authority or from the source that generated the document. However, in that case, the time limits specified by this section do not apply.

(b) At the expense of the homeowner, who may opt to use an offsite copy facility that is bonded and insured, the builder shall provide to the homeowner or his or her legal representative copies of all maintenance and preventative maintenance recommendations that pertain to his or her residence within 30 days of service of a written request for those documents. Those documents shall also be provided to the homeowner in conjunction with the initial sale of the residence.

(c) At the expense of the homeowner, who may opt to use an offsite copy facility that is bonded and insured, a builder shall provide to the homeowner or his or her legal representative copies of all manufactured products maintenance, preventive maintenance, and limited warranty information within 30 days of a written request for those documents. These documents shall also be provided to the homeowner in conjunction with the initial sale of the residence.

(d) At the expense of the homeowner, who may opt to use an offsite copy facility that is bonded and insured, a builder shall

provide to the homeowner or his or her legal representative copies of all of the builder's limited contractual warranties in accordance with this part in effect at the time of the original sale of the residence within 30 days of a written request for those documents. Those documents shall also be provided to the homeowner in conjunction with the initial sale of the residence.

(e) A builder shall maintain the name and address of an agent for notice pursuant to this chapter with the Secretary of State or, alternatively, elect to use a third party for that notice if the builder has notified the homeowner in writing of the third party's name and address, to whom claims and requests for information under this section may be mailed. The name and address of the agent for notice or third party shall be included with the original sales documentation and shall be initialed and acknowledged by the purchaser and the builder's sales representative.

This subdivision applies to instances in which a builder contracts with a third party to accept claims and act on the builder's behalf. A builder shall give actual notice to the homeowner that the builder has made such an election, and shall include the name and address of the third party.

(f) A builder shall record on title a notice of the existence of these procedures and a notice that these procedures impact the legal rights of the homeowner. This information shall also be included with the original sales documentation and shall be initialed and acknowledged by the purchaser and the builder's sales representative.

(g) A builder shall provide, with the original sales documentation, a written copy of this title, which shall be initialed and acknowledged by the purchaser and the builder's sales representative.

(h) As to any documents provided in conjunction with the original sale, the builder shall instruct the original purchaser to provide those documents to any subsequent purchaser.

(i) Any builder who fails to comply with any of these requirements within the time specified is not entitled to the protection of this chapter, and the homeowner is released from the requirements of this chapter and may proceed with the filing of an action, in which case the remaining chapters of this part shall continue to apply to the action.

SEC. 54. Section 1675 of the Civil Code, as amended by Section 25 of Chapter 140 of the Statutes of 2009, is amended to read:

1675. (a) As used in this section, "residential property" means real property primarily consisting of a dwelling that meets both of the following requirements:

(1) The dwelling contains not more than four residential units.

(2) At the time the contract to purchase and sell the property is made, the buyer intends to occupy the dwelling or one of its units as his or her residence.

(b) A provision in a contract to purchase and sell residential property that provides that all or any part of a payment made by the buyer shall constitute liquidated damages to the seller upon the buyer's failure to complete the purchase of the property is valid to the extent that payment in the form of cash or check, including a postdated check, is actually made if the provision satisfies the requirements of Sections 1677 and 1678 and either subdivision (c) or (d) of this section.

(c) If the amount actually paid pursuant to the liquidated damages provision does not exceed 3 percent of the purchase price, the provision is valid to the extent that payment is actually made unless the buyer establishes that the amount is unreasonable as liquidated damages.

(d) If the amount actually paid pursuant to the liquidated damages provision exceeds 3 percent of the purchase price, the provision is invalid unless the party seeking to uphold the provision establishes that the amount actually paid is reasonable as liquidated damages.

(e) For the purposes of subdivisions (c) and (d), the reasonableness of an amount actually paid as liquidated damages shall be determined by taking into account both of the following:

(1) The circumstances existing at the time the contract was made.

(2) The price and other terms and circumstances of any subsequent sale or contract to sell and purchase the same property if the sale or contract is made within six months of the buyer's default.

(f) (1) Notwithstanding either subdivision (c) or (d), for the initial sale of newly constructed attached condominium units, as defined pursuant to Section 783, that involves the sale of an attached residential condominium unit located within a structure

of 10 or more residential condominium units and the amount actually paid to the seller pursuant to the liquidated damages provision exceeds 3 percent of the purchase price of the residential unit in the transaction, both of the following shall occur in the event of a buyer's default:

(A) The seller shall perform an accounting of its costs and revenues related to and fairly allocable to the construction and sale of the residential unit within 60 calendar days after the final close of escrow of the sale of the unit within the structure.

(B) The accounting shall include any and all costs and revenues related to the construction and sale of the residential property and any delay caused by the buyer's default. The seller shall make reasonable efforts to mitigate any damages arising from the default. The seller shall refund to the buyer any amounts previously retained as liquidated damages in excess of the greater of either 3 percent of the originally agreed-upon purchase price of the residential property or the amount of the seller's losses resulting from the buyer's default, as calculated by the accounting.

(2) The refund shall be sent to the buyer's last known address within 90 days after the final close of escrow of the sale or lease of all the residential condominium units within the structure.

(3) If the amount retained by the seller after the accounting does not exceed 3 percent of the purchase price, the amount is valid unless the buyer establishes that the amount is unreasonable as liquidated damages pursuant to subdivision (e).

(4) Subdivision (d) shall not apply to any dispute regarding the reasonableness of any amount retained as liquidated damages pursuant to this subdivision.

(5) Notwithstanding the time periods regarding the performance of the accounting set forth in paragraph (1), if a new qualified buyer has entered into a contract to purchase the residential property in question, the seller shall perform the accounting within 60 calendar days after a new qualified buyer has entered into a contract to purchase.

(6) As used in this subdivision, "structure" means either of the following:

(A) Improvements constructed on a common foundation.

(B) Improvements constructed by the same owner that must be constructed concurrently due to the design characteristics of the

improvements or physical characteristics of the property on which the improvements are located.

(7) As used in this subdivision, "new qualified buyer" means a buyer who either:

(A) Has been issued a loan commitment, which satisfies the purchase agreement loan contingency requirement, by an institutional lender to obtain a loan for an amount equal to the purchase price less any downpayment possessed by the buyer.

(B) Has contracted to pay a purchase price that is greater than or equal to the purchase price to be paid by the original buyer.

(g) (1) (A) Notwithstanding subdivision (c), (d), or (f), for the initial sale of newly constructed attached condominium units, as defined pursuant to Section 783, that involves the sale of an attached residential condominium unit described in subparagraph (B), and the amount actually paid to the seller pursuant to the liquidated damages provision exceeds 6 percent of the purchase price of the residential unit in the transaction, both of the following shall occur in the event of a buyer's default:

(i) The seller shall perform an accounting of its costs and revenues related to and fairly allocable to the construction and sale of the residential unit within 60 calendar days after the final close of escrow of the sale of the unit within the structure.

(ii) The accounting shall include any and all costs and revenues related to the construction and sale of the residential property and any delay caused by the buyer's default. The seller shall make reasonable efforts to mitigate any damages arising from the default. The seller shall refund to the buyer any amounts previously retained as liquidated damages in excess of the greater of either 6 percent of the originally agreed-upon purchase price of the residential property or the amount of the seller's losses resulting from the buyer's default, as calculated by the accounting.

(B) This subdivision applies to an attached residential condominium unit for which both of the following are true:

(i) The unit is located within a structure of 20 or more residential condominium units, standing over eight stories high, that is high-density infill development, as defined in paragraph (10) of subdivision (a) of Section 21159.24 of the Public Resources Code, and that is located in a city, county, or city and county with a population density of 1,900 residents per square mile or greater, as evidenced by the 2000 United States census.

(ii) The purchase price of the unit was more than one million dollars ($1,000,000).

(2) The refund shall be sent to the buyer's last known address within 90 days after the final close of escrow of the sale or lease of all the residential condominium units within the structure.

(3) If the amount retained by the seller after the accounting does not exceed 6 percent of the purchase price, the amount is valid unless the buyer establishes that the amount is unreasonable as liquidated damages pursuant to subdivision (e).

(4) Subdivision (d) shall not apply to any dispute regarding the reasonableness of any amount retained as liquidated damages pursuant to this subdivision.

(5) Notwithstanding the time periods regarding the performance of the accounting set forth in paragraph (1), if a new qualified buyer has entered into a contract to purchase the residential property in question, the seller shall perform the accounting within 60 calendar days after a new qualified buyer has entered into a contract to purchase.

(6) As used in this subdivision, "structure" means either of the following:

(A) Improvements constructed on a common foundation.

(B) Improvements constructed by the same owner that must be constructed concurrently due to the design characteristics of the improvements or physical characteristics of the property on which the improvements are located.

(7) As used in this subdivision, "new qualified buyer" means a buyer who either:

(A) Has been issued a loan commitment, which satisfies the purchase agreement loan contingency requirement, by an institutional lender to obtain a loan for an amount equal to the purchase price less any downpayment possessed by the buyer.

(B) Has contracted to pay a purchase price that is greater than or equal to the purchase price to be paid by the original buyer.

(8) Commencing on July 1, 2010, and annually on each July 1 thereafter, the dollar amount of the minimum purchase price specified in paragraph (1) shall be adjusted. The Real Estate Commissioner shall determine the amount of the adjustment based on the change in the median price of a single family home in California, as determined by the most recent data available from the Federal Housing Finance Board. Upon determining the amount

of the adjustment, the Real Estate Commissioner shall publish the current dollar amount of the minimum purchase price on the Internet Web site of the ~~Department of Real Estate~~ *Bureau of Real Estate*.

(9) Prior to the execution of a contract for sale of a residential condominium unit subject to this subdivision, the seller shall provide to the buyer the following notice, in at least 12-point type:

"Important Notice Regarding Your Deposit: Under California law, in a contract for the initial sale of a newly constructed attached condominium unit in a building over eight stories tall, containing 20 or more residential units, and located in a high-density infill development in a city, county, or city and county with 1,900 residents or more per square mile, where the price is more than one million dollars ($1,000,000), as adjusted by the ~~Department of Real Estate~~ *Bureau of Real Estate*, liquidated damages of 6 percent of the purchase price are presumed valid if the buyer defaults, unless the buyer establishes that the amount is unreasonable."

If the seller fails to provide this notice to the buyer prior to the execution of the contract, the amount of any liquidated damages shall be subject to subdivisions (c) and (d).

(h) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 55. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "personal information" means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.

(b) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records which contain personal information about the employees of the State Compensation Insurance Fund.

(4) A local agency, as defined in subdivision (a) of Section 6252 of the Government Code.

(c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(d) The term "individual" means a natural person.

(e) The term "maintain" includes maintain, acquire, use, or disclose.

(f) The term "person" means any natural person, corporation, partnership, limited liability company, firm, or association.

(g) The term "record" means any file or grouping of information about an individual that is maintained by an agency by reference to an identifying particular such as the individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual.

(h) The term "system of records" means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(i) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

(j) The term "commercial purpose" means any purpose which has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

(k) The term "regulatory agency" means the Department of ~~Financial Institutions, the Department of Corporations~~ *Business Oversight*, the Department of Insurance, the ~~Department~~ *Bureau* of Real Estate, and agencies of the United States or of any other state responsible for regulating financial institutions.

SEC. 56. Section 2985 of the Civil Code is amended to read:

2985. (a) A real property sales contract is an agreement in which one party agrees to convey title to real property to another party upon the satisfaction of specified conditions set forth in the

contract and that does not require conveyance of title within one year from the date of formation of the contract.

(b) For purposes of this chapter only, a real property sales contract does not include a contract for purchase of an attached residential condominium unit entered into pursuant to a conditional public report issued by the ~~Department of Real Estate~~ *Bureau of Real Estate* pursuant to Section 11018.12 of the Business and Professions Code.

SEC. 57. Section 5240 of the Civil Code, as added by Section 2 of Chapter 180 of the Statutes of 2012, is amended to read:

5240. (a) As applied to an association and its members, the provisions of this article are intended to supersede the provisions of Sections 8330 and 8333 of the Corporations Code to the extent those sections are inconsistent.

(b) Except as provided in subdivision (a), members of the association shall have access to association records, including accounting books and records and membership lists, in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations Code.

(c) ~~The provisions of this article apply~~ *This article applies* to any community service organization or similar entity that is related to the association, and to any nonprofit entity that provides services to a common interest development under a declaration of trust. This article shall operate to give a member of the organization or entity a right to inspect and copy the records of that organization or entity equivalent to that granted to association members by this article.

(d) ~~The provisions of this~~ *This* article shall not apply to any common interest development in which separate interests are being offered for sale by a subdivider under the authority of a public report issued by the ~~Department of Real Estate~~ *Bureau of Real Estate* so long as the subdivider or all subdividers offering those separate interests for sale, or any employees of those subdividers or any other person who receives direct or indirect compensation from any of those subdividers, comprise a majority of the directors. Notwithstanding the foregoing, this article shall apply to that common interest development no later than 10 years after the close of escrow for the first sale of a separate interest to a member of the general public pursuant to the public report issued for the first phase of the development.

SEC. 58. Section 5400 of the Civil Code, as added by Section 2 of Chapter 180 of the Statutes of 2012, is amended to read:

5400. To the extent existing funds are available, the Department of Consumer Affairs and the ~~Department of Real Estate~~ *Bureau of Real Estate* shall develop an online education course for the board regarding the role, duties, laws, and responsibilities of directors and prospective directors, and the nonjudicial foreclosure process.

SEC. 59. Section 1218 of the Code of Civil Procedure is amended to read:

1218. (a) Upon the answer and evidence taken, the court or judge shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he or she is guilty of the contempt, a fine may be imposed on him or her not exceeding one thousand dollars ($1,000), payable to the court, or he or she may be imprisoned not exceeding five days, or both. In addition, a person who is subject to a court order as a party to the action, or any agent of this person, who is adjudged guilty of contempt for violating that court order may be ordered to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs incurred by this party in connection with the contempt proceeding.

(b) ~~No~~ *Any* party, who is in contempt of a court order or judgment in a dissolution of marriage, dissolution of domestic partnership, or legal separation action, shall *not* be permitted to enforce such an order or judgment, by way of execution or otherwise, either in the same action or by way of a separate action, against the other party. This restriction shall not affect nor apply to the enforcement of child or spousal support orders.

(c) In any court action in which a party is found in contempt of court for failure to comply with a court order pursuant to the Family Code, the court shall order the following:

(1) Upon a first finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, or to be imprisoned up to 120 hours, for each count of contempt.

(2) Upon the second finding of contempt, the court shall order the contemner to perform community service of up to 120 hours, in addition to ordering imprisonment of the contemner up to 120 hours, for each count of contempt.

(3) Upon the third or any subsequent finding of contempt, the court shall order both of the following:

(A) The court shall order the contemner to serve a term of imprisonment of up to 240 hours, and to perform community service of up to 240 hours, for each count of contempt.

(B) The court shall order the contemner to pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to a community service program pursuant to this paragraph.

(4) The court shall take parties' employment schedules into consideration when ordering either community service or imprisonment, or both.

(d) Pursuant to Section 1211 and this section, a district attorney or city attorney may initiate and pursue a court action for contempt against a party for failing to comply with a court order entered pursuant to the Domestic Violence Protection Act (Division 10 (commencing with Section 6200) of the Family Code). Any attorney's fees and costs ordered by the court pursuant to subdivision (a) against a party who is adjudged guilty of contempt under this subdivision shall be paid to the ~~California Emergency Management Agency's~~ *Office of Emergency Services'* account established for the purpose of funding domestic violence shelter service providers pursuant to subdivision (f) of Section 13823.15 of the Penal Code.

SEC. 60. Section 14010 of the Corporations Code is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business financial development corporation created pursuant to this part.

(b) "Director" means the Director of the Governor's Office of Business and Economic Development.

~~(b)~~

(c) "Financial institution" means banking organizations including national banks and trust companies authorized to conduct business in California and state-chartered commercial banks, trust companies, and savings and loan associations.

~~(c)~~

(d) "Financial company" means banking organizations including national banks and trust companies, savings and loan associations, state insurance companies, mutual insurance companies, and other banking, lending, retirement, and insurance organizations.

~~(d)~~

(e) "Expansion Fund" means the California Small Business Expansion Fund.

~~(e)~~

(f) Unless otherwise defined by the director by regulation, "small business loan" means a loan to a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations, including those businesses organized for agricultural purposes that create or retain employment as a result of the loan. From time to time, the director shall provide guidelines as to the preferred ratio of jobs created or retained to total funds borrowed for guidance to the corporations.

~~(f)~~

(g) "Employment incentive loan" means a loan to a qualified business, as defined in subdivision (h) of Section 7082 of the Government Code, or to a business located within an enterprise zone, as defined in subdivision (b) of Section 7072 of the Government Code.

~~(g)~~

(h) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on a loan application pursuant to Section 14060.

~~(h)~~

(i) "Board of directors" means the board of directors of the corporation.

~~(i)~~

(j) "Board" means the California Small Business Board.

~~(j) "Agency" means the Business, Transportation and Housing Agency.~~

~~(k) "Director" means the person designated to this title by the secretary.~~

~~*(l)* "Secretary" means the Secretary of Business, Transportation and Housing Agency.~~

(k) "Manager" means the manager of the Small Business Loan Guarantee Program as designated by the Director of the Governor's Office of Business and Economic Development.

(l) "Office" means the Governor's Office of Business and Economic Development.

(m) "Trust fund" means the money from the expansion fund that is held in trust by a financial institution or a financial company. A trust fund is not a deposit of state funds and is not subject to the requirements of Section 16506 of the Government Code.

(n) "Trust fund account" means an account within the trust fund that is allocated to a particular small business financial development corporation for the purpose of paying loan defaults and claims on bond guarantees for a specific small business financial development corporation.

(o) "Trustee" is the lending institution or financial company selected by the office to hold and invest the trust fund. The agreement between the agency and the trustee shall not be construed to be a deposit of state funds.

SEC. 61. Section 14060.6 of the Corporations Code is amended to read:

~~14060.6. (a)~~

14060.6. (a) The Small Business Loan Guarantee Program exists in the Governor's Office of Business and Economic Development.

(b) The Legislature finds and declares that the Small Business Loan Guarantee Program has enabled participating small businesses that do not qualify for conventional business loans or Small Business Administration loans to secure funds to expand their businesses. These small businesses would not have been able to expand their businesses in the absence of the program. The program has also provided valuable technical assistance to small businesses to ensure growth and stability. The study commissioned by Section 14069.6, as added by Chapter 919 of the Statutes of 1997, documented the return on investment of the program and the need for its services. The value of the program has also been recognized by the Governor through proposals contained in the May Revision to the Budget Act of 2000 for the 2000–01 fiscal year.

~~(b)~~

(c) Notwithstanding Section 14060.5, the ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business*

and Economic Development shall establish new small business financial development corporations pursuant to the procedures otherwise established by this chapter in the following areas:

(1) San Jose.

(2) Santa Ana.

(3) San Fernando Valley.

(4) Ontario.

~~(c)~~

(d) Upon an appropriation in the annual Budget Act for this purpose, the ~~Secretary of Business, Transportation and Housing~~ *Governor's Office of Business and Economic Development* shall establish a small business financial development corporation in southeast Los Angeles.

~~(d)~~

(e) Each of the small business financial development corporations, upon the recommendation of the board and at least once each year, shall make a presentation and overview of the corporation's business operations to the board.

SEC. 62. Section 25005 of the Corporations Code is amended to read:

25005. "Commissioner" means the Commissioner of ~~Corporations~~ *Business Oversight*.

SEC. 63. Section 25600 of the Corporations Code is repealed.

~~25600. There is in the state government, in the Business and Transportation Agency a Department of Corporations, which shall administer the provisions of this division. The chief officer of the Department of Corporations is the Commissioner of Corporations. The commissioner shall be appointed by the Governor and shall hold office at the pleasure of the Governor. He or she shall receive an annual salary as fixed in the Government Code. Within 15 days from the time of his or her appointment the commissioner shall take and subscribe to the constitutional oath of office and file it in the office of the Secretary of State.~~

~~Whenever the term "Division of Corporations" is used in the law, it means the Department of Corporations.~~

SEC. 64. Section 25601 of the Corporations Code is repealed.

~~25601. The commissioner shall have his principal office in the City of Sacramento, and may establish branch offices in the City and County of San Francisco, in the City of Los Angeles and in the City of San Diego. The commissioner shall from time to time~~

~~obtain the necessary furniture, stationery, fuel, light, and other proper conveniences for the transaction of the business of the Department of Corporations.~~

SEC. 65. Section 25602 of the Corporations Code is repealed.

~~25602. In accordance with the laws governing the state civil service, the commissioner shall employ and, with the approval of the Department of Finance, fix the compensation of such personnel as the commissioner needs to discharge properly the duties imposed upon the commissioner by law, including legal counsel to act as the attorney for the commissioner in actions or proceedings brought by or against the commissioner under or pursuant to any provision of any law under the commissioner's jurisdiction, or in which the commissioner joins or intervenes as to a matter within the commissioner's jurisdiction, as a friend of the court or otherwise, and stenographic reporters to take and transcribe the testimony in any formal hearing or investigation before the commissioner or before a person authorized by the commissioner. The personnel of the Department of Corporations shall perform such duties as the commissioner assigns to them. Such employees as the commissioner designates by rule or order shall, within 15 days after their appointments, take and subscribe to the constitutional oath of office and file it in the office of the Secretary of State.~~

SEC. 66. Section 25603 of the Corporations Code is repealed.

~~25603. The commissioner shall adopt a seal bearing the inscription: "Commissioner of Corporations, State of California." The seal shall be affixed to or imprinted on all orders and certificates issued by him and such other instruments as he directs. All courts shall take judicial notice of this seal.~~

SEC. 67. Section 28033 of the Corporations Code is amended to read:

28033. "Commissioner" means the Commissioner of ~~Corporations~~ *Business Oversight* or his or her designee with respect to a particular matter.

SEC. 68. Section 29200 of the Corporations Code is amended to read:

29200. Every person doing business as a broker or making contracts as a broker or agent for the purchase or sale of any securities or commodities on any board of trade or exchange shall keep or cause to be kept at his office or place of business correct and permanent records or books of account showing each of such

transactions as a separate item. The failure so to keep or cause to be kept such records or books of account is prima facie evidence that any such contract was bucketing or bucketshopping.

Such records or books of account shall at all times be open to inspection by the Commissioner of ~~Corporations~~ *Business Oversight* or by any deputy, investigator, or auditor of the Department of ~~Corporations~~ *Business Oversight* to whom he may delegate such authority in writing.

SEC. 69. Section 29503 of the Corporations Code is amended to read:

29503. "Commissioner" means the ~~Commissioner of Corporations~~ *Deputy Commissioner of Business Oversight for the Division of Corporations*.

SEC. 70. Section 31004 of the Corporations Code is amended to read:

31004. "Commissioner" means the ~~Commissioner of Corporations~~ *Deputy Commissioner of Business Oversight for the Division of Corporations*.

SEC. 71. Section 31210 of the Corporations Code is amended to read:

31210. It is unlawful for any person to effect or attempt to effect a sale of a franchise in this state, except in transactions exempted under Chapter 1 (commencing with Section 31100) of Part 2 of this division, unless such person is: (1) identified in an application or amended application filed with the commissioner pursuant to Part 2 (commencing with Section 31100) of this division, (2) licensed by the ~~California Department of Real Estate~~ *Bureau of Real Estate* as a real estate broker or real estate salesman, or (3) licensed by the commissioner as a broker-dealer or agent pursuant to the Corporate Securities Law of 1968.

SEC. 72. Section 17444 of the Education Code is amended to read:

17444. (a) Any installment of an owner's development lien created pursuant to this article shall become delinquent 30 days following billing thereof if unpaid, or if the installment is being collected by the county tax collector, at the time general taxes become delinquent. An installment shall be in default 30 days after written notice of the delinquency has been given by certified or registered mail to the record owner of the property subject to the lien and all lenders of record.

(b) The governing board, not later than four years after the date of default of any payment, may order that the amount be collected by an action brought in superior court to foreclose against the real property subject to the owner's development lien for the then delinquent installment of the owner's development lien. The action shall affect only the delinquent amounts and shall not accelerate or require payment of any remaining amount of the owner's development lien.

(c) The lease agreement between the governing board and the nonprofit corporation may contain covenants for the benefit of bondholders providing that the governing board shall commence and diligently prosecute to completion any foreclosure action regarding delinquent installments of an owner's development lien. The lease agreement may specify a deadline for commencement of the foreclosure action and any other terms and conditions that the governing board may determine to be reasonable.

(d) The governing board may assign its rights under this section to the nonprofit corporation or to any trustee under the resolution adopted pursuant to Section 17437.

(e) Costs in the action shall be fixed and allowed by the court and shall include, but are not limited to, reasonable attorneys' fees, interest, penalties and other charges or advances authorized by this article, and when so fixed and allowed by the court, the costs shall be included in the judgment. The amount of penalties, costs, and interest due shall be calculated up to the date of judgment.

(f) All matters pertaining to foreclosure, execution and sale shall be governed by the then existing law of California. However, notwithstanding any other law, the owner's right of redemption shall be limited to 60 days following the date of sale of the owner's interest. The owner's development lien shall continue as security for all future required installment payments. Any remaining funds after foreclosure and payment of all obligations and costs of foreclosure of the delinquent installment of the owner's development lien shall be paid pursuant to the priority of encumbrances of record and to the owner or owner's successor as of the date of initiation of the foreclosure proceeding.

(g) Foreclosures of installments of the owner's development lien pursuant to this article shall not affect the priority of any scheme of community development approved by the ~~Department of Real Estate~~ *Bureau of Real Estate*, including, but not limited

to, subdivision maps, condominium plans, covenants, conditions, restrictions, and easements whether recorded prior to or subsequent to the owner's development lien.

SEC. 73. Section 22001 of the Education Code is amended to read:

22001. In order to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools, the State Teachers' Retirement System is established. The system is a unit of the ~~State and Consumer Services~~ *Government Operations* Agency.

SEC. 74. Section 32282 of the Education Code is amended to read:

32282. (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A district or county office may work with the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The district or county office shall cooperate with the public agency in furnishing and maintaining the services as the district or county office may deem necessary to meet the needs of the community.

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing “gang-related apparel,” if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define “gang-related apparel.” The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school

campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(G) Procedures for safe ingress and egress of pupils, parents, and school employees to and from school.

(H) A safe and orderly environment conducive to learning at the school.

(I) The rules and procedures on school discipline adopted pursuant to Sections 35291 and 35291.5.

(b) It is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

(c) Grants to assist schools in implementing their comprehensive school safety plan shall be made available through the partnership as authorized by Section 32285.

(d) Each schoolsite council or school safety planning committee in developing and updating a comprehensive school safety plan shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

(e) The comprehensive school safety plan may be evaluated and amended, as needed, by the school safety planning committee, but shall be evaluated at least once a year, to ensure that the comprehensive school safety plan is properly implemented. An updated file of all safety-related plans and materials shall be readily available for inspection by the public.

(f) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying.

(g) The comprehensive school safety plan, as written and updated by the schoolsite council or school safety planning committee, shall be submitted for approval under subdivision (a) of Section 32288.

SEC. 75. Section 32282.5 of the Education Code is amended to read:

32282.5. (a) The department shall electronically distribute disaster preparedness educational materials and lesson plans that are currently available to school districts and county offices of education.

(b) The department shall ensure that the disaster preparedness materials are available in at least the three most dominant primary languages spoken by English learners in California, according to the language census.

(c) The department shall coordinate with the ~~California Emergency Management Agency~~ *Office of Emergency Services* to make sure that all materials are reviewed and updated annually.

SEC. 76. Section 35296 of the Education Code is amended to read:

35296. The governing board of each private school shall establish an earthquake emergency procedure system in every private school building under its jurisdiction having an occupant capacity of 50 or more pupils or more than one classroom. A governing board may work with the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the Seismic Safety Commission to develop and establish the earthquake emergency procedure systems.

SEC. 77. Section 51264 of the Education Code is amended to read:

51264. (a) The State Department of Education shall prepare and distribute to school districts and county offices of education guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating

efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 5 (commencing with Section 32280) of Chapter 2.5 of Part 19, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the ~~California Emergency Management Agency~~ *Office of Emergency Services* regarding gang violence.

SEC. 78. Section 51266 of the Education Code is amended to read:

51266. (a) The ~~California Emergency Management Agency~~ *Office of Emergency Services*, in collaboration with the State Department of Education, shall develop a model gang violence suppression and substance abuse prevention curriculum for grades 2, 4, and 6. The curriculum for grades 2, 4, and 6 shall be modeled after a similar curriculum that has been developed by the Orange County Office of Education for grades 3, 5, and 7. The ~~California Emergency Management Agency~~ *Office of Emergency Services*, in collaboration with the State Department of Education, may contract with a county office of education for the development of the model curriculum. The model curriculum shall be made available to school districts and county offices of education and shall, at a minimum, provide for each of the following:

(1) Lessons for grades 2, 4, and 6 that are aligned with the state curriculum frameworks for history, social science, and English and language arts.

(2) Instructional resources that address issues of ethnic diversity and at-risk pupils.

(3) The integration of the instructional resources of the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the School/Law Enforcement Partnership in order to support the school curriculum and assist in the alignment of the state curriculum framework.

(b) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall develop an independent evaluation of the pupil outcomes of the model gang violence suppression and substance abuse prevention curriculum program.

SEC. 79. Section 51266.5 of the Education Code is amended to read:

51266.5. The Rural Gang Task Force Subcommittee provided for by subdivision (g) of Section 13826.1 of the Penal Code, in collaboration with the Gang Violence Suppression Advisory Committee provided for by subdivision (g) of Section 13826.1 of the Penal Code and the ~~California Emergency Management Agency~~ *Office of Emergency Services*, shall review the model gang violence suppression and substance abuse prevention curriculum for grades 2, 4, and 6, developed pursuant to Section 51266, and identify methods by which the curriculum can best be utilized in rural school settings.

SEC. 80. Section 51269 of the Education Code is amended to read:

51269. (a) The State Department of Education shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for state and federal drug, alcohol, and tobacco education funds.

(b) The State Department of Education, in consultation with the Department of Justice, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and the State Department of Alcohol and Drug Programs, shall develop, to the extent possible, an ongoing statewide monitoring and assessment system to provide current and reliable data on the utilization of resources

for programs for prevention of and early intervention for drug, alcohol, and tobacco abuse. The purpose of the system shall be to facilitate improved planning and program delivery among state and local agencies, including law enforcement, juvenile justice, county health, and county drug and alcohol agencies and programs, and communities.

SEC. 81. Section 66210 of the Education Code is amended to read:

66210. (a) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall develop guidelines for campuses of the University of California and the California State University to use in developing emergency evacuation plans for all forms of student housing owned, operated, and offered by the university, both on campus and off campus. In developing the guidelines, the ~~California Emergency Management Agency~~ *Office of Emergency Services* shall consider Sections 3.09 and 3.13 of Title 19 of the California Code of Regulations. The guidelines shall address all of the following issues:

(1) Plan content. The plans should include, but need not be limited to, the following:

(A) Specific evacuation routes that recognize the needs of persons with special needs, such as persons with disabilities.

(B) The designation of a meeting place or places upon evacuation.

(C) The education of students and staff in emergency procedures.

(2) The implementation and maintenance of the evacuation plan by the director of student housing, or other appropriate officer, at the individual campuses. The director, or other appropriate officer, is responsible for scheduling periodic tests of the plan and implementing changes as needed.

(b) Each campus of the University of California and the California State University shall establish an emergency evacuation plan for its postsecondary student housing and may consult with the ~~California Emergency Management Agency~~ *Office of Emergency Services* for guidance in developing and establishing the plan.

SEC. 82. Section 71095 of the Education Code is amended to read:

71095. (a) The chancellor's office, in consultation with the ~~California Emergency Management Agency~~ *Office of Emergency*

Services and the Office of Homeland Security, shall, by January 1, 2009, develop emergency preparedness standards and guidelines to assist community college districts and campuses in the event of a natural disaster, hazardous condition, or terrorist activity on or around a community college campus.

(b) The standards and guidelines shall be developed in accordance with the Standardized Emergency Management System and the National Incident Management System, and shall be reviewed by the ~~California Emergency Management Agency~~ *Office of Emergency Services* in a manner that is consistent with existing policy. In developing the standards and guidelines, the chancellor's office shall consider, but is not limited to, all of the following components:

(1) Information on establishing a campus emergency management team.

(2) Provisions regarding overview training for every employee within one year of commencement of employment.

(3) Information on specialized training for employees who may be designated as part of an emergency management team.

(4) Information on preparedness, prevention, response, recovery, and mitigation policies and procedures.

(5) Information on coordinating with the appropriate local, state, and federal government authorities, and nongovernmental entities on comprehensive emergency management and preparedness activities.

SEC. 83. Section 94600 of the Education Code is amended to read:

94600. (a) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall develop guidelines for private colleges and universities to use in developing emergency evacuation plans for all forms of student housing owned, operated, and offered by private colleges and universities, both on campus and off campus. In developing the guidelines, the ~~California Emergency Management Agency~~ *Office of Emergency Services* shall consider Sections 3.09 and 3.13 of Title 19 of the California Code of Regulations. The guidelines shall address all of the following issues:

(1) Plan content. The plans should include, but need not be limited to, the following:

(A) Specific evacuation routes that recognize the needs of persons with special needs, such as persons with disabilities.

(B) The designation of a meeting place or places upon evacuation.

(C) The education of students and staff in emergency procedures.

(2) The implementation and maintenance of the evacuation plan by the director of student housing, or other appropriate officer, at individual campuses. The director, or other appropriate officer, is responsible for scheduling periodic tests of the plan and implementing changes as needed.

(b) Each private college or university shall establish an emergency evacuation plan for its postsecondary student housing and may consult with the ~~California Emergency Management Agency~~ *Office of Emergency Services* for guidance in developing and establishing the plan.

SEC. 84. Section 298 of the Family Code is amended to read:

298. (a) (1) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(2) When funding allows, the Secretary of State shall include on the form notice that a lesbian, gay, bisexual, and transgender specific domestic abuse brochure is available upon request.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and the cost for preparing and sending the mailings and notices required pursuant to Section 299.3, and shall charge these fees to persons filing the forms.

(3) There is hereby established a fee of twenty-three dollars ($23) to be charged in addition to the existing fees established by regulation to persons filing domestic partner registrations pursuant to Section 297 for development and support of a lesbian, gay, bisexual, and transgender curriculum for training workshops on domestic violence, conducted pursuant to Section 13823.15 of the Penal Code, and for the support of a grant program to promote healthy nonviolent relationships in the lesbian, gay, bisexual, and

transgender community. This paragraph shall not apply to persons of opposite sexes filing a domestic partnership registration and who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297.

(4) The fee established by paragraph (3) shall be deposited in the Equality in Prevention and Services for Domestic Abuse Fund, which is hereby established. The fund shall be administered by the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and expenditures from the fund shall be used to support the purposes of paragraph (3).

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) state that he or she consents to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state, (4) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (5) have a notary public acknowledge his or her signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor.

(d) The Declaration of Domestic Partnership form shall contain an optional section for either party or both parties to indicate a change in name pursuant to Section 298.6. The optional section shall require a party indicating a change in name to provide his or her date of birth.

SEC. 85. Section 17520 of the Family Code is amended to read:

17520. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the ~~Department of Real Estate~~ *Bureau of Real Estate*, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support

obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail

shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section

is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this

section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice

pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

~~Nothing in this~~

This section shall *not* be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (*l*) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the

applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred

pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other ~~provision of~~ law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended

under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other ~~provision of~~ law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 86. Section 125 of the Financial Code is amended to read:

125. "Commissioner" means the Commissioner of ~~Financial Institutions~~ *Business Oversight* and "department" means the Department of ~~Financial Institutions~~ *Business Oversight*.

SEC. 87. The heading of Chapter 3 (commencing with Section 300) of Division 1 of the Financial Code is amended to read:

CHAPTER 3. DEPARTMENT OF ~~FINANCIAL INSTITUTIONS~~ *BUSINESS OVERSIGHT*

SEC. 88. The heading of Article 2 (commencing with Section 320) of Chapter 3 of Division 1 of the Financial Code is amended to read:

Article 2. Commissioner of ~~Financial Institutions~~ *Business Oversight*

SEC. 89. Section 320 of the Financial Code is amended to read:

320. The chief officer of the Department of ~~Financial Institutions~~ *Business Oversight* is the Commissioner of ~~Financial Institutions~~ *Business Oversight*. The Commissioner of ~~Financial Institutions~~ *Business Oversight* is the head of the department *with the authority and responsibility over all officers, employees, and activities in the department* and, except as otherwise provided in this code, is subject to the provisions of the Government Code relating to department heads, but need not reside in Sacramento.

SEC. 90. Section 321 of the Financial Code is repealed.

~~321. As of the operative date of this section:~~

~~(a) In this section, "order" means any approval, consent, authorization, exemption, denial, prohibition, requirement, or other administrative action, applicable to a specific case.~~

~~(b) The office of the Superintendent of Banks and the State Banking Department are abolished. All powers, duties, responsibilities, and functions of the Superintendent of Banks and the State Banking Department are transferred to the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively. The Commissioner of Financial Institutions and the Department of Financial Institutions succeed to all the rights and property of the Superintendent of Banks and the State Banking Department, respectively; the Commissioner of Financial Institutions and the Department of Financial Institutions are subject to all the debts and liabilities of the Superintendent of Banks and the State Banking Department, respectively, as if the Commissioner of Financial Institutions and the Department of Financial Institutions had incurred them. Any action or proceeding by or against the Superintendent of Banks or the State Banking Department may be prosecuted to judgment, which shall bind the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively, or the Commissioner of Financial Institutions or the Department of Financial Institutions may be proceeded against or substituted in place of the Superintendent of Banks or the State Banking Department, respectively. References in the Constitution of the State of California or in any statute or regulation to the Superintendent of Banks or to the State Banking Department mean the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. All agreements entered into with, and orders and regulations issued by, the Superintendent of Banks or the State Banking Department shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively.~~

~~(c) The office of the Savings and Loan Commissioner and the Department of Savings and Loan are abolished. All powers, duties, responsibilities, and functions of the Savings and Loan Commissioner and the Department of Savings and Loan are transferred to the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively. The Commissioner of Financial Institutions and the Department of Financial Institutions succeed to all the rights and property of the Savings and Loan Commissioner and the Department of Savings~~

~~and Loan, respectively; the Commissioner of Financial Institutions and the Department of Financial Institutions are subject to all the debts and liabilities of the Savings and Loan Commissioner and the Department of Savings and Loan, respectively, as if the Commissioner of Financial Institutions and the Department of Financial Institutions had incurred them. Any action or proceeding by or against the Savings and Loan Commissioner or the Department of Savings and Loan may be prosecuted to judgment, which shall bind the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively, or the Commissioner of Financial Institutions or the Department of Financial Institutions may be proceeded against or substituted in place of the Savings and Loan Commissioner or the Department of Savings and Loan, respectively. References in the Constitution of the State of California or in any statute or regulation to the Savings and Loan Commissioner or to the Department of Savings and Loan mean the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. All agreements entered into with, and orders and regulations issued by, the Savings and Loan Commissioner or the Department of Savings and Loan shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions.~~

~~(d) All powers, duties, responsibilities, and functions of the Commissioner of Corporations and the Department of Corporations with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business are transferred to the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively. The Commissioner of Financial Institutions and the Department of Financial Institutions succeed to all the rights and property of the Commissioner of Corporations and the Department of Corporations, respectively, with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business; the Commissioner of Financial Institutions and the Department of Financial Institutions are subject to all the debts and liabilities of the Commissioner of Corporations and the Department of Corporations, respectively, with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business, as if the Commissioner of Financial Institutions and the Department of Financial Institutions had~~

~~incurred them. Any action or proceeding by or against the Commissioner of Corporations or the Department of Corporations with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business may be prosecuted to judgment, which shall bind the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively, or the Commissioner of Financial Institutions or the Department of Financial Institutions may be proceeded against or substituted in place of the Commissioner of Corporations or the Department of Corporations, respectively. References in the Constitution of the State of California or any statute or regulation to the Commissioner of Corporations or to the Department of Corporations with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business mean the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Corporations or the Department of Corporations in the exercise of authority under any law relating to credit unions, the credit union business, industrial loan companies, or the industrial loan business, shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions.~~

SEC. 91. Section 321 is added to the Financial Code, to read:

321. (a) In this section, "order" means any approval, consent, authorization, exemption, denial, prohibition, requirement, or other administrative action, applicable to a specific case.

(b) The office of the Commissioner of Financial Institutions and the Department of Financial Institutions are abolished. All powers, duties, responsibilities, and functions of the Commissioner of Financial Institutions and the Department of Financial Institutions are transferred to the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The Commissioner of Business Oversight and the Department of Business Oversight succeed to all of the rights and property of the Commissioner of Financial Institutions and Department of Financial Institutions, respectively; the Commissioner of Business Oversight and the Department of Business Oversight are subject to all the debts and liabilities of the Commissioner of Financial Institutions and the Department of Financial Institutions,

respectively, as if the Commissioner of Business Oversight and the Department of Business Oversight had incurred them. Any action or proceeding by or against the Commissioner of Financial Institutions or the Department of Financial Institutions may be prosecuted to judgment, which shall bind the Commissioner of Business Oversight or the Department of Business Oversight, respectively, or the Commissioner of Business Oversight or the Department of Business Oversight may be proceeded against or substituted in place of the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. References in the California Constitution or in any statute or regulation to the Superintendent of Banks or the Commissioner of Financial Institutions or to the State Banking Department or the Department of Financial Institutions mean the Commissioner of Business Oversight or the Department of Business Oversight, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Business Oversight or the Department of Business Oversight, respectively.

(c) The office of the Commissioner of Corporations and the Department of Corporations are abolished. All powers, duties, responsibilities, and functions of the Commissioner of Corporations and the Department of Corporations are transferred to the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The Commissioner of Business Oversight and the Department of Business Oversight succeed to all of the rights and property of the Commissioner of Corporations and Department of Corporations, respectively; the Commissioner of Business Oversight and the Department of Business Oversight are subject to all the debts and liabilities of the Commissioner of Corporations and the Department of Corporations, respectively, as if the Commissioner of Business Oversight and the Department of Business Oversight had incurred them. Any action or proceeding by or against the Commissioner of Corporations or the Department of Corporations may be prosecuted to judgment, which shall bind the Commissioner of Business Oversight or the Department of Business Oversight, respectively, or the Commissioner of Business Oversight or the Department of Business Oversight may be

proceeded against or substituted in place of the Commissioner of Corporations or the Department of Corporations, respectively. References in the California Constitution or in any statute or regulation to the Commissioner of Corporations or the Department of Corporations mean the Commissioner of Business Oversight or the Department of Business Oversight, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Corporations or the Department of Corporations shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Business Oversight or the Department of Business Oversight, respectively.

SEC. 92. Section 351 of the Financial Code is repealed.

~~351. The Chief Officer of the Division of Credit Unions is the Deputy Commissioner of Financial Institutions for the Division of Credit Unions. The Deputy Commissioner of Financial Institutions for the Division of Credit Unions shall administer the laws of this state relating to credit unions or the credit union business under the direction of the commissioner. The Deputy Commissioner of Financial Institutions for the Division of Credit Unions shall be appointed by the Governor and shall hold office at the pleasure of the Governor. The Deputy Commissioner of Financial Institutions shall receive an annual salary as fixed by the Governor.~~

SEC. 93. Section 351 is added to the Financial Code, to read:

351. (a) The chief officer of the Division of Corporations is the Deputy Commissioner of Business Oversight for the Division of Corporations. The Deputy Commissioner of Business Oversight for the Division of Corporations shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Corporations. The Deputy Commissioner of Business Oversight for the Division of Corporations shall be appointed by the Governor and shall hold office at the pleasure of the Governor. The Deputy Commissioner of Business Oversight for the Division of Corporations shall receive an annual salary as fixed by the Governor.

(b) The chief officer of the Division of Financial Institutions is the Deputy Commissioner of Business Oversight for the Division of Financial Institutions. The Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall, under

the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions. The Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall be appointed by the Governor and shall hold office at the pleasure of the Governor. The Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall receive an annual salary as fixed by the Governor.

SEC. 94. Section 371 of the Financial Code is repealed.

~~371. There is in the Department of Financial Institutions, the Division of Credit Unions. The Division of Credit Unions has charge of the execution of the laws of this state relating to credit unions and to the credit union business.~~

SEC. 95. Section 371 is added to the Financial Code, to read:

371. (a) There is in the Department of Business Oversight, the Division of Corporations. The Division of Corporations has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Corporations.

(b) There is in the Department of Business Oversight, the Division of Financial Institutions. The Division of Financial Institutions has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions.

SEC. 96. Section 2003 of the Financial Code is amended to read:

2003. For purposes of this division, the following definitions shall apply:

(a) "Affiliate," when used with respect to a specified person, means any person controlling, controlled by, or under common control with, that specified person, directly or indirectly through one or more intermediaries. For purposes of subdivisions (q) and (v), a specified person is affiliated with another person if that person controls, is controlled by, or under common control through the ownership directly or indirectly of shares or equity securities possessing more than 50 percent of the voting power of that specified person.

(b) "Agent" means a person that provides money transmission in California on behalf of the licensee, provided that the licensee becomes liable for the money transmission from the time money or monetary value is received by that person. However, "agent"

does not include any officer or employee of the licensee when acting as such at an office of a licensee.

(c) "Applicant" means a person that files an application for a license or for acquisition of control of a licensee under this division.

(d) "Average daily outstanding" means the amount of outstanding money transmission obligations in California at the end of each day in a given period of time, added together, and divided by the total number of days in that period of time.

(e) "Branch office" means any office in this state of a licensee or agent at which the licensee receives money or monetary value to provide money transmission, either directly or through an agent.

(f) "Business day" means one of the following:

(1) When used with respect to any act to be performed in this state, any day other than Saturday, Sunday, or any other day that is provided for as a holiday in the Government Code.

(2) When used with respect to any act to be performed in any jurisdiction other than this state, any day other than a day that is a legal holiday under the laws of that jurisdiction.

(g) "Commissioner" means the Commissioner of ~~Financial Institutions~~ *Business Oversight*.

(h) "Control" has the meaning set forth in Section 1250.

(i) "Day" means calendar day.

(j) "In California" or "in this state" means physically located in California, or with, to, or from persons located in California.

(k) "Issue" and "issuer" mean, with regard to a payment instrument, the entity that is the maker or drawer of the instrument in accordance with the California Commercial Code and is liable for payment. With regard to stored value, "issue" and "issuer" mean the entity that is liable to the holder of stored value and has undertaken or is obligated to pay the stored value. Only a licensee may issue stored value or payment instruments.

(*l*) "Licensee" means a corporation or limited liability company licensed under this division.

(m) "Monetary value" means a medium of exchange, whether or not redeemable in money.

(n) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(o) "Money transmission" means any of the following:
(1) Selling or issuing payment instruments.
(2) Selling or issuing stored value.
(3) Receiving money for transmission.

(p) "Outstanding," with respect to payment instruments and stored value, means issued or sold by the licensee in the United States and not yet paid or refunded by the licensee, or issued or sold on behalf of the licensee in the United States by its agent and reported as sold, but not yet paid or refunded by the licensee. "Outstanding," with respect to receiving money for transmission means all money or monetary value received in the United States for transmission by the licensee or its agents but not yet paid to the beneficiaries or refunded to the person from whom the money or monetary value was received. All outstanding money transmission of a licensee is and shall remain a liability of the licensee until it is no longer outstanding.

(q) "Payment instrument" means a check, draft, money order, traveler's check, or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or any instrument that is redeemable by the issuer for goods or services provided by the issuer or its affiliate.

(r) "Person" means an individual, corporation, business trust, estate, trust, partnership, proprietorship, syndicate, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or joint stock company, or any other organization or legal or commercial entity, provided, however, that "person," when used with respect to acquiring control of or controlling a specified person, includes any combination of two or more persons acting in concert.

(s) "Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means. The term does not include sale or issuance of payment instruments and stored value.

(t) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(u) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any

territory or insular possession subject to the jurisdiction of the United States.

(v) "Stored value" means monetary value representing a claim against the issuer that is stored on an electronic or digital medium and evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services. The term does not include a credit card voucher, letter of credit, or any stored value that is only redeemable by the issuer for goods or services provided by the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

(w) "Traveler's check" means an instrument that meets all of the following:

(1) Is designated on its face by the term "traveler's check" or by any substantially similar term or is commonly known and marketed as a traveler's check.

(2) Contains a provision for a specimen signature of the purchaser to be completed at the time of purchase.

(3) Contains a provision for a countersignature of the purchaser to be completed at the time of negotiation.

SEC. 97. Section 4805.055 of the Financial Code is amended to read:

4805.055. "Commissioner" means the *Deputy* Commissioner of *Business Oversight for the Division of* Financial Institutions.

SEC. 98. Section 4970 of the Financial Code is amended to read:

4970. For purposes of this division:

(a) "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth in Lending Act and the regulations adopted thereunder by the Federal Reserve Board.

(b) "Covered loan" means a consumer loan in which the original principal balance of the loan does not exceed the most current conforming loan limit for a single-family first mortgage loan established by the Federal National Mortgage Association in the case of a mortgage or deed of trust, and where one of the following conditions are met:

(1) For a mortgage or deed of trust, the annual percentage rate at consummation of the transaction will exceed by more than eight percentage points the yield on Treasury securities having

comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor.

(2) The total points and fees payable by the consumer at or before closing for a mortgage or deed of trust will exceed 6 percent of the total loan amount.

(c) "Points and fees" shall include the following:

(1) All items required to be disclosed as finance charges under Sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, including the Official Staff Commentary, as amended from time to time, except interest.

(2) All compensation and fees paid to mortgage brokers in connection with the loan transaction.

(3) All items listed in Section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, only if the person originating the covered loan receives direct compensation in connection with the charge.

(d) "Consumer loan" means a consumer credit transaction that is secured by real property located in this state used, or intended to be used or occupied, as the principal dwelling of the consumer that is improved by a one-to-four residential unit. "Consumer loan" does not include a reverse mortgage, an open line of credit as defined in Part 226 of Title 12 of the Code of Federal Regulations (Regulation Z), or a consumer credit transaction that is secured by rental property or second homes. "Consumer loan" does not include a bridge loan. For purposes of this division, a bridge loan is any temporary loan, having a maturity of one year or less, for the purpose of acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

(e) "Original principal balance" means the total initial amount the consumer is obligated to repay on the loan.

(f) "Licensing agency" shall mean the ~~Department of Real Estate~~ *Bureau of Real Estate* for licensed real estate brokers, the Department of ~~Corporations~~ *Business Oversight* for licensed residential mortgage lenders ~~and~~, licensed finance lenders and brokers, and the ~~Department of Financial Institutions for~~ commercial and industrial banks and savings associations and credit unions organized in this state.

(g) "Licensed person" means a real estate broker licensed under the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code), a finance lender

or broker licensed under the California Finance Lenders Law (Division 9 (commencing with Section 22000)), a residential mortgage lender licensed under the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000)), a commercial or industrial bank organized under the Banking Law (Division 1 (commencing with Section 99)), a savings association organized under the Savings Association Law (Division 2 (commencing with Section 5000)), and a credit union organized under the California Credit Union Law (Division 5 (commencing with Section 14000)). ~~Nothing in this~~ *This* division shall *not* be construed to prevent any enforcement by a governmental entity against any person who originates a loan and who is exempt or excluded from licensure by all of the licensing agencies, based on a violation of any provision of this division. ~~Nothing in this~~ *This* division shall *not* be construed to prevent the ~~Department of Real Estate~~ *Bureau of Real Estate* from enforcing this division against a licensed salesperson employed by a licensed real estate broker as if that salesperson were a licensed person under this division. A licensed person includes any person engaged in the practice of consumer lending, as defined in this division, for which a license is required under any other provision of law, but whose license is invalid, suspended or revoked, or where no license has been obtained.

(h) "Originate" means to arrange, negotiate, or make a consumer loan.

(i) "Servicer" has the same meaning provided in Section 6 (i)(2) of the Real Estate Settlement Procedures Act of 1974.

SEC. 99. Section 5104 of the Financial Code is amended to read:

5104. "Commissioner" means the *Deputy* Commissioner of *Business Oversight for the Division of* Financial Institutions.

SEC. 100. Section 5106 of the Financial Code is amended to read:

5106. "Department" means the ~~Department~~ *Division* of Financial Institutions *in the Department of Business Oversight*.

SEC. 101. Section 12003 of the Financial Code is amended to read:

12003. "Commissioner" means the *Deputy* Commissioner of ~~Corporations of the State of California~~ *Business Oversight for the*

Division of Corporations, or any deputy, investigator, auditor, or any other person employed by him *or her*.

SEC. 102. Section 14003 of the Financial Code is amended to read:

14003. "Commissioner" means the *Deputy* Commissioner of *Business Oversight for the Division of* Financial Institutions ~~of the State of California~~.

SEC. 103. Section 14200.1 of the Financial Code is amended to read:

14200.1. There is in the ~~Department~~ *Division* of Financial Institutions, the ~~Division~~ *Office* of Credit Unions. The ~~Division~~ *Office* of Credit Unions has charge of the execution of the laws of this state relating to credit unions or to the credit union business.

SEC. 104. Section 14200.2 of the Financial Code is amended to read:

14200.2. The ~~Chief Officer~~ *chief officer* of the ~~Division~~ *Office* of Credit Unions is the ~~Deputy Commissioner of Financial Institutions for the Division~~ *Chief of the Office* of Credit Unions. The ~~Deputy Commissioner of Financial Institutions for the Division~~ *Chief of the Office* of Credit Unions shall, *under the direction and on behalf of the Deputy Commissioner of Business Oversight for the Division of Financial Institutions,* administer the laws of this state relating to credit unions or the credit union business ~~under the direction of and on behalf of the commissioner~~. The ~~Deputy Commissioner of Financial Institutions for the Division~~ *Chief of the Office* of Credit Unions shall be appointed by the Governor and shall hold office at the pleasure of the Governor. The ~~Deputy Commissioner of Financial Institutions~~ *Chief of the Office of Credit Unions* shall receive an annual salary as fixed by the Governor.

SEC. 105. Section 17002 of the Financial Code is amended to read:

17002. "Commissioner" means the *Deputy* Commissioner of ~~Corporations~~ *Business Oversight for the Division of Corporations*.

SEC. 106. Section 17312 of the Financial Code is amended to read:

17312. (a) Each person licensed pursuant to this division who is engaged in the business of receiving escrows specified in subdivision (c) and whose escrow business location is located within the State of California shall participate as a member in Fidelity Corporation in accordance with this chapter and rules

established by the Board of Directors of Fidelity Corporation. Fidelity Corporation shall not deny membership to any escrow agent holding a valid unrevoked license under the Escrow Law who is required to be a member under this subdivision.

(b) Upon filing a new application for licensure as required by Section 17201, persons required to be a member of Fidelity Corporation shall file a copy thereof concurrently with Fidelity Corporation. If an application for licensure submitted to Fidelity Corporation contains personal or confidential information, Fidelity Corporation and its board shall maintain this information in confidence to protect the privacy of the information. The copy of the application shall include the three-thousand-dollar ($3,000) fee specified in subdivision (a) of Section 17320 and all required Fidelity Corporation Certificates set forth in Sections 17331 and 17331.1. Fidelity Corporation shall promptly furnish to the commissioner a compliance letter confirming that the applicant has satisfied the requirements to be a member of Fidelity Corporation.

(c) The required membership in Fidelity Corporation shall be limited to those licensees whose escrow business location is located within the State of California and who engage, in whole or in part, in the business of receiving escrows for deposit or delivery in the following types of transactions:

(1) Real property escrows, including, but not limited to, the sale, encumbrance, lease, transfer of title, loans or other obligations to be secured by a lien upon real property, and exchanges, excluding money or property held or deposited pursuant to paragraph (3) of subdivision (a) of Section 51003.

(2) Bulk sale escrows, including, but not limited to, the sale or transfer of title to a business entity and the transfer of liquor licenses or other types of business licenses or permits.

(3) Fund or joint control escrows, including, but not limited to, transactions specified in Section 17005.1, and contracts specified in Section 10263 of the Public Contract Code.

(4) The sale, transfer of title, or refinance escrows for manufactured homes or mobilehomes.

(5) Reservation deposits required under Article 2 (commencing with Section 11010) of Chapter 1 of Part 2 of Division 4 of the Business and Professions Code or by regulation of the ~~Department~~

~~of Real Estate~~ *Bureau of Real Estate* to be held in an escrow account.

(6) Escrows for sale, transfer, modification, assignment, or hypothecation of promissory notes secured by deeds of trust.

(d) Coverage required to be provided by Fidelity Corporation under this chapter shall be provided to members only for loss of trust obligations with respect to those types of transactions specified in subdivision (c). If a loss covered by Fidelity Corporation is also covered by a member's general liability, dishonesty, or indemnity policy, or other private insurance policy, then the member's private policy shall first be applied as the primary indemnity to cover the loss. However, the failure of the member's private primary policy to indemnify the member's loss within the time specified for Fidelity Corporation indemnity in subdivision (a) of Section 17314 shall not limit the indemnity obligations of Fidelity Corporation as defined in this chapter. Indemnity coverage for those types of transactions not specified in subdivision (c) shall be provided by escrow agents in accordance with Section 17203.1.

SEC. 107. Section 17423.1 of the Financial Code is amended to read:

17423.1. (a) (1) Whenever the commissioner takes any enforcement or disciplinary action pursuant to Section 17423, upon the action becoming final the commissioner shall notify the Real Estate Commissioner and the Insurance Commissioner of the action or actions taken. The purpose of this notification is to alert the departments that enforcement or disciplinary action has been taken, if the person seeks or obtains employment with entities regulated by the departments.

(2) The commissioner shall provide the Real Estate Commissioner and the Insurance Commissioner, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Real Estate Commissioner or Insurance Commissioner, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Insurance Commissioner or the Real Estate Commissioner shall not be made public pursuant to this section. Notwithstanding any other provision of law, the disclosure of any underlying factual material to the

Insurance Commissioner or the Real Estate Commissioner shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

(b) The commissioner shall establish and maintain, on the Web site maintained by the Department of ~~Corporations~~ *Business Oversight*, a separate and readily identifiable database of all persons who have been subject to any enforcement or disciplinary action that triggers the notification requirements of this section. The database shall also contain a direct link to the databases, described in Section 10176.1 of the Business and Professions Code and Section 12414.31 of the Insurance Code and required to be maintained on the Web sites of the ~~Department of Real Estate~~ *Bureau of Real Estate* and the Department of Insurance, respectively, of persons who have been subject to enforcement or disciplinary action for malfeasance or misconduct related to the escrow industry by the Insurance Commissioner and the Real Estate Commissioner.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State of California, the Department of ~~Corporations~~ *Business Oversight*, the Commissioner of ~~Corporations~~ *Business Oversight*, any other state agency, or any officer, agent, employee, consultant, or contractor of the state, for the release of any false or unauthorized information pursuant to this section, unless the release of that information was done with knowledge and malice, or for the failure to release any information pursuant to this section.

SEC. 108. Section 18002 of the Financial Code is amended to read:

18002. "Commissioner" means the *Deputy* Commissioner of *Business Oversight for the Division of* Financial Institutions ~~of the State of California~~.

SEC. 109. Section 18002.5 of the Financial Code is amended to read:

18002.5. "Department" means the ~~Department~~ *Division* of Financial Institutions *in the Department of Business Oversight*.

SEC. 110. Section 22005 of the Financial Code is amended to read:

22005. "Commissioner" means the *Deputy* Commissioner of ~~Corporations~~ *Business Oversight for the Division of Corporations*.

SEC. 111. Section 23001 of the Financial Code is amended to read:

23001. As used in this division, the following terms have the following meanings:

(a) "Deferred deposit transaction" means a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement for a fee or other charge, as provided in Section 23035.

(b) "Commissioner" means the Commissioner of ~~Corporations~~ *Business Oversight*.

(c) "Department" means the ~~Department of Corporations~~ *Division of Corporations within the Department of Business Oversight*.

(d) "Licensee" means any person who offers, originates, or makes a deferred deposit transaction, who arranges a deferred deposit transaction for a deferred deposit originator, who acts as an agent for a deferred deposit originator, or who assists a deferred deposit originator in the origination of a deferred deposit transaction. However, "licensee" does not include a state or federally chartered bank, thrift, savings association, industrial loan company, or credit union. "Licensee" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum fee not exceeding two dollars ($2) as a service to its customers that is incidental to its main purpose or business. "Licensee" also does not include an employee regularly employed by a licensee at the licensee's place of business. An employee, when acting under the scope of the employee's employment, shall be exempt from any other law from which the employee's employer is exempt.

(e) "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government entity, or a political subdivision of a government entity.

(f) "Deferred deposit originator" means a person who offers, originates, or makes a deferred deposit transaction.

SEC. 112. Section 30002 of the Financial Code is amended to read:

30002. "Commissioner" means the ~~Commissioner of Corporations~~ *Deputy Commissioner of Business Oversight for the Division of Corporations*.

SEC. 113. Section 30005 of the Financial Code is amended to read:

30005. This division does not apply to:

(a) A securities depository which is operated by a corporation, all of the capital stock (other than directors' qualifying shares, if any) of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934, or by a corporation all of the capital stock (other than directors' qualifying shares, if any) of which is held by or for such a wholly owned subsidiary of a registered national securities exchange.

(b) A securities depository which is registered with the Securities and Exchange Commission pursuant to any provision of federal law or which is regulated by the Comptroller of the Currency, the Federal Reserve Board, or the Federal Deposit Insurance Corporation pursuant to any provision of federal law, or which is regulated by the Commissioner of ~~Financial Institutions~~ *Business Oversight* under Division 1 (commencing with Section ~~99)~~ *1000)* of the Financial Code.

SEC. 114. Section 31055 of the Financial Code is amended to read:

31055. "Commissioner" means the ~~Commissioner of~~ *Deputy Commissioner of Business Oversight for the Division of* Financial Institutions or any person to whom the ~~Commissioner of Financial Institutions~~ *deputy commissioner* delegates the authority to act for him or her in the particular matter.

SEC. 115. Section 50003 of the Financial Code, as amended by Section 9 of Chapter 264 of the Statutes of 2012, is amended to read:

50003. (a) "Annual audit" means a certified audit of the licensee's books, records, and systems of internal control performed by an independent certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards.

(b) "Borrower" means the loan applicant.

(c) "Buy" includes exchange, offer to buy, or solicitation to buy.

(d) "Commissioner" means the ~~Commissioner of Corporations~~ *Deputy Commissioner of Business Oversight for the Division of Corporations*.

(e) "Control" means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a licensee under this division, whether through voting or through the ownership of voting power of an entity that possesses voting power of the licensee, or otherwise. Control is presumed to exist if a person, directly or indirectly, owns, controls, or holds 10 percent or more of the voting power of a licensee or of an entity that owns, controls, or holds, with power to vote, 10 percent or more of the voting power of a licensee. No person shall be deemed to control a licensee solely by reason of his or her status as an officer or director of the licensee.

(f) "Depository institution" has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(g) "Engage in the business" means the dissemination to the public, or any part of the public, by means of written, printed, or electronic communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communications media, of any information relating to the making of residential mortgage loans, the servicing of residential mortgage loans, or both. "Engage in the business" also means, without limitation, making residential mortgage loans or servicing residential mortgage loans, or both.

(h) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(i) "In this state" includes any activity of a person relating to making or servicing a residential mortgage loan that originates from this state and is directed to persons outside this state, or that originates from outside this state and is directed to persons inside this state, or that originates inside this state and is directed to persons inside this state, or that leads to the formation of a contract and the offer or acceptance thereof is directed to a person in this state (whether from inside or outside this state and whether the offer was made inside or outside the state).

(j) "Institutional investor" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing, including, by way of example, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company, or subsidiary or affiliate of one of the preceding entities, doing business under the authority of or in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit-sharing, or welfare funds, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000), except pension, profit-sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.

(4) A corporation or other entity with outstanding securities registered under Section 12 of the federal Securities Exchange Act of 1934 or a wholly owned subsidiary of that corporation or entity, provided that the purchaser represents either of the following:

(A) That it is purchasing for its own account for investment and not with a view to, or for sale in connection with, any distribution of a promissory note.

(B) That it is purchasing for resale pursuant to an exemption under Rule 144A (17 C.F.R. 230.144A) of the Securities and Exchange Commission.

(5) An investment company registered under the Investment Company Act of 1940; or a wholly owned and controlled subsidiary of that company, provided that the purchaser makes either of the representations provided in paragraph (4).

(6) A residential mortgage lender or servicer licensed to make residential mortgage loans under this law or an affiliate or subsidiary of that person.

(7) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer, or agent of that person, if that person is acting within the scope of authority granted by that license or an affiliate or subsidiary controlled by that broker or dealer, in connection with a transaction involving the offer, sale, purchase, or exchange of one or more promissory notes secured directly or indirectly by liens on real property or a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, and the offer and sale of those securities is qualified under the California Corporate Securities Law of 1968 or registered under federal securities laws, or exempt from qualification or registration.

(8) A licensed real estate broker selling the loan to an institutional investor specified in paragraphs (1) to (7), inclusive, or paragraph (9) or (10).

(9) A business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 or a Small Business Investment Company licensed by the United States Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958.

(10) A syndication or other combination of any of the foregoing entities that is organized to purchase a promissory note.

(11) A trust or other business entity established by an institutional investor for the purpose of issuing or facilitating the issuance of securities representing undivided interests in, or rights to receive payments from or to receive payments primarily from, a pool of financial assets held by the trust or business entity, provided that all of the following apply:

(A) The business entity is not a sole proprietorship.

(B) The pool of assets consists of one or more of the following:

(i) Interest-bearing obligations.

(ii) Other contractual obligations representing the right to receive payments from the assets.

(iii) Surety bonds, insurance policies, letters of credit, or other instruments providing credit enhancement for the assets.

(C) The securities will be either one of the following:

(i) Rated as “investment grade” by Standard and Poor’s Corporation or Moody’s Investors Service, Inc. “Investment grade” means that the securities will be rated by Standard and Poor’s

Corporation as AAA, AA, A, or BBB or by Moody's Investors Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings with "+" or "—" designation or other variations that occur within those ratings.

(ii) Sold to an institutional investor.

(D) The offer and sale of the securities is qualified under the California Corporate Securities Law of 1968 or registered under federal securities laws, or exempt from qualification or registration.

(k) "Institutional lender" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing, including, by way of example, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial loan company, or insurance company, or service or investment company that is wholly owned and controlled by one of the preceding entities, doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(4) A residential mortgage lender or servicer licensed to make residential mortgage loans under this law.

(*l*) "Law" means the California Residential Mortgage Lending Act.

(m) "Lender" means a person that (1) is an approved lender for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, (2) directly makes residential mortgage loans, and (3) makes the credit decision in the loan transactions.

(n) "Licensee" means, depending on the context, a person licensed under Chapter 2 (commencing with Section 50120),

Chapter 3 (commencing with Section 50130), or Chapter 3.5 (commencing with Section 50140).

(o) "Makes or making residential mortgage loans" or "mortgage lending" means processing, underwriting, or as a lender using or advancing one's own funds, or making a commitment to advance one's own funds, to a loan applicant for a residential mortgage loan.

(p) "Mortgage loan," "residential mortgage loan," or "home mortgage loan" means a federally related mortgage loan as defined in Section 3500.2 of Title 24 of the Code of Federal Regulations, or a loan made to finance construction of a one-to-four family dwelling.

(q) "Mortgage servicer" or "residential mortgage loan servicer" means a person that (1) is an approved servicer for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, and (2) directly services or offers to service mortgage loans.

(r) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

(s) "Net worth" has the meaning set forth in Section 50201.

(t) "Own funds" means (1) cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on a lender's financial statements, whether secured or unsecured, or (2) a lender's affiliate's cash, corporate capital, or warehouse credit lines at commercial banks or other sources that are liability items on the affiliate's financial statements, whether secured or unsecured. "Own funds" does not include funds provided by a third party to fund a loan on condition that the third party will subsequently purchase or accept an assignment of that loan.

(u) "Person" means a natural person, a sole proprietorship, a corporation, a partnership, a limited liability company, an association, a trust, a joint venture, an unincorporated organization,

a joint stock company, a government or a political subdivision of a government, and any other entity.

(v) "Residential real property" or "residential real estate" means real property located in this state that is improved by a one-to-four family dwelling.

(w) "SAFE Act" means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

(x) "Service" or "servicing" means receiving more than three installment payments of principal, interest, or other amounts placed in escrow, pursuant to the terms of a mortgage loan and performing services by a licensee relating to that receipt or the enforcement of its receipt, on behalf of the holder of the note evidencing that loan.

(y) "Sell" includes exchange, offer to sell, or solicitation to sell.

(z) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

(aa) For purposes of Sections 50142, 50143, and 50145, "nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate mortgage.

(ab) For purposes of Section 50141, "expungement" means the subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such individual to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information, or indictment. With respect to criminal convictions in another state, that state's definition of expungement will apply.

SEC. 116. Section 50702 of the Financial Code is amended to read:

50702. (a) The annual report required by Section 50401(a) shall include both of the following:

(1) The number and the aggregate principal amount of closed residential mortgage loans secured by residential real estate in which the licensee provides brokerage services, as defined in this chapter.

(2) The number and aggregate principal amount of residential mortgage loans made by the licensee under this division.

(b) The sum total of the aggregate principal loan amounts reported in paragraphs (1) and (2) of subdivision (a) shall be deemed the aggregate principal amount of mortgage loans secured

by residential real property originated by the licensee, for purposes of determining a licensee's annual assessment under subdivision (a) of Section 50401.

(c) The commissioner shall provide copies of the annual reports required by subdivision (a) of Section 50401 to the ~~Department of Real Estate~~ *Bureau of Real Estate* upon request of the Real Estate Commissioner.

SEC. 117. Section 1389 of the Fish and Game Code is amended to read:

1389. The preservation and enhancement of riparian habitat shall be a primary concern of the Wildlife Conservation Board and the department, and of all state agencies whose activities impact riparian habitat, including the Department of Conservation, ~~the Department of Boating and Waterways,~~ the Department of Parks and Recreation, the Department of Water Resources, the Department of Forestry and Fire Protection, the State Coastal Conservancy, the California Conservation Corps, the California Tahoe Conservancy, the Santa Monica Mountains Conservancy, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Lands Commission.

SEC. 118. Section 2301 of the Fish and Game Code is amended to read:

2301. (a) (1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or his or her designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels. Included as part of this authority to conduct inspections is the authority to temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway in order to conduct inspections.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

(C) Impound or quarantine conveyances in locations designated by the department for up to five days or the period of time necessary to ensure that dreissenid mussels can no longer live on or in the conveyance.

(D) (i) Conduct inspections of waters of the state and facilities located within waters of the state that may contain dreissenid mussels. If dreissenid mussels are detected or may be present, the director or his or her designee may order the affected waters or facilities closed to conveyances or otherwise restrict access to the affected waters or facilities, and shall order that conveyances removed from, or introduced to, the affected waters or facilities be inspected, quarantined, or disinfected in a manner and for a duration necessary to detect and prevent the spread of dreissenid mussels within the state.

(ii) For the purpose of implementing clause (i), the director or his or her designee shall order the closure or quarantine of, or restrict access to, these waters, areas, or facilities in a manner and duration necessary to detect and prevent the spread of dreissenid mussels within the state. No closure, quarantine, or restriction shall be authorized by the director or his or her designee without the concurrence of the Secretary of the Natural Resources Agency. If a closure lasts longer than seven days, the department shall update the operator of the affected facility every 10 days on efforts to address the dreissenid infestation. The department shall provide these updates in writing and also post these updates on the department's Internet Web site in an easily accessible manner.

(iii) The department shall develop procedures to ensure proper notification of affected local and federal agencies, and, as appropriate, ~~the Department of Boating and Waterways,~~ the Department of Water Resources, the Department of Parks and Recreation, and the State Lands Commission in the event of a decision to close, quarantine, or restrict a facility pursuant to this paragraph. These procedures shall include the reasons for the closure, quarantine, or restriction, and methods for providing updated information to those affected. These procedures shall also include protocols for the posting of the notifications on the department's Internet Web site required by clause (ii).

(iv) When deciding the scope, duration, level, and type of restrictions, and specific location of a closure or quarantine, the director shall consult with the agency, entity, owner, or operator

with jurisdiction, control, or management responsibility over the marina, boat launch facility, or other facility, in order to focus the closure or quarantine to specific areas and facilities so as to avoid or minimize disruption of economic or recreational activity in the vicinity.

(b) (1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c) (1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) A public or private agency that operates a water supply system shall cooperate with the department to implement measures to avoid infestation by dreissenid mussels and to control or eradicate any infestation that may occur in a water supply system. If dreissenid mussels are detected, the operator of the water supply system, in cooperation with the department, shall prepare and implement a plan to control or eradicate dreissenid mussels within the system. The approved plan shall contain the following minimum elements:

(A) Methods for delineation of infestation, including both adult mussels and veligers.

(B) Methods for control or eradication of adult mussels and decontamination of water containing larval mussels.

(C) A systematic monitoring program to determine any changes in conditions.

(D) The requirement that the operator of the water supply system permit inspections by the department as well as cooperate with the department to update or revise control or eradication measures in

the approved plan to address scientific advances in the methods of controlling or eradicating mussels and veligers.

(2) If the operator of water delivery and storage facilities for public water supply purposes has prepared, initiated, and is in compliance with all the elements of an approved plan to control or eradicate dreissenid mussels in accordance with paragraph (1), the requirements of subdivision (a) do not apply to the operation of those water delivery and storage facilities, and the operator is not subject to any civil or criminal liability for the introduction of dreissenid mussel species as a result of those operations. The department may require the operator of a facility to update its plan, and if the plan is not updated or revised as described in subparagraph (D) of paragraph (1), subdivision (a) shall apply to the operation of the water delivery and storage facilities covered by the plan until the operator updates or revises the plan and initiates and complies with all of the elements of the updated or revised plan.

(e) Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

(f) (1) In addition to any other penalty provided by law, any person who violates this section, *violates* any verbal or written order or regulation adopted pursuant to this section, or who resists, delays, obstructs, or interferes with the implementation of this section, is subject to a penalty, in an amount not to exceed one thousand dollars ($1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(g) The department may adopt regulations to carry out this section.

(h) Pursuant to Section 818.4 of the Government Code, the department and any other state agency exercising authority under this section shall not be liable with regard to any determination or authorization made pursuant to this section.

(i) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 119. Section 3862 of the Fish and Game Code is amended to read:

3862. The Natural Resources Agency, in consultation with the department, the Department of Food and Agriculture, the State Department of *Public* Health ~~Services~~, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and the University of California, shall develop and implement a plan for the surveillance, monitoring, sampling, diagnostic testing, and reporting of avian influenza in wild birds and animals in the state. The *Natural* Resources Agency shall consult with the United States Fish and Wildlife Service and the United States Department of Food and Agriculture in developing the plan.

SEC. 120. Section 3863 of the Fish and Game Code is amended to read:

3863. (a) The Secretary of the Natural Resources Agency shall formally establish the Avian Influenza Working Group to assist in the development of the plan described in Section 3862. The Avian Influenza Working Group shall utilize, as guidance for early detection, the national protocol that has been developed to guide states in developing state-specific plans, known as the Early Detection System for Asian H5N1 Highly Pathogenic Avian Influenza in Wild Migratory Birds. The Avian Influenza Working Group shall also continue, enhance, and facilitate the work already begun by the department, other state departments, and the University of California, to coordinate communication of information and response plans for highly pathogenic avian influenza in wild birds.

(b) The Avian Influenza Working Group shall be composed of all of the following members:

(1) The Secretary of the Natural Resources Agency, or a designee.

(2) The director, or a designee.

(3) The Secretary of Food and Agriculture, or a designee.

(4) The ~~Director of Health Services~~ *State Public Health Officer*, or a designee.

(5) The ~~Secretary of Emergency Management~~ *Director of Emergency Services*, or a designee.

(6) One representative appointed by the Regents of the University of California.

(7) Two representatives from a qualified research organization or other qualified nongovernmental organization appointed by the Secretary of the Natural Resources Agency.

(c) The director shall chair the Avian Influenza Working Group.

(d) A majority of the Avian Influenza Working Group shall constitute a quorum for the transaction of business.

(e) The duties of the Avian Influenza Working Group shall include all of the following:

(1) Developing strategies for the detection of, and response to, the avian influenza virus in wild birds in California.

(2) Fostering communication among state and federal agencies regarding the avian influenza surveillance program.

(3) Developing strategies for public outreach and education.

(f) The Avian Influenza Working Group may consult with other public and nonprofit groups potentially affected by avian influenza in wild birds.

SEC. 121. Section 3806 of the Food and Agricultural Code is amended to read:

3806. For the purposes of Article 1 (commencing with Section 4101) of Chapter 6 of this part, "agency" means the ~~State and Consumer Services~~ *Natural Resources* Agency.

SEC. 122. Section 4101.4 of the Food and Agricultural Code is amended to read:

4101.4. (a) The Legislature finds and declares that the operation of the California Science Center may require individual skills not generally available in state civil service to support specialized functions, such as exhibit maintenance, and educational and guest services programs, including animal care and horticulture.

(b) Notwithstanding any other provision of law, the California Science Center may enter into a personal services contract or contracts with the California Science Center Foundation without a competitive bidding process. These contracts shall be subject to approval by the ~~State and Consumer Services~~ *Natural Resources* Agency and the Department of General Services and be subject to all state audit requirements.

SEC. 123. Section 11451.5 of the Food and Agricultural Code is repealed.

~~11451.5. The Department of Pesticide Regulation shall have jurisdiction over the Structural Pest Control Board as established~~

~~under the Structural Pest Control Act (Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code).~~

SEC. 124. Section 58509 of the Food and Agricultural Code is amended to read:

58509. (a) The Secretary of ~~the State and Consumer Services Agency~~ *Food and Agriculture* shall consult with four food bank representatives, two from the northern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two from the southern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two food industry representatives, one wholesaler and one manufacturer, all of whom shall be selected by the Governor and referred to as the Food Bank Advisory Committee.

(b) Members of the committee who are not state employees shall be paid per diem for their actual expenses in attending committee meetings.

(c) The committee shall do all of the following:

(1) Advise the ~~State and Consumer Services Agency~~ *Department of Food and Agriculture* in the establishment of new food banks.

(2) Advise in the adequate and efficient distribution of surplus food commodities to all areas of the state.

SEC. 125. Section 179.7 of the Government Code is amended to read:

179.7. (a) Notwithstanding Article 6 of the Emergency Management Assistance Compact, as set forth in Section 179.5, the state shall indemnify and make whole any officer or employee who is a resident of California, or his or her heirs, if the officer or employee is injured or killed in another state when rendering aid pursuant to the compact, as if the act or acts occurred in California, less any recovery obtained under the provisions of Article 6 of the Emergency Management Assistance Compact.

(b) Local government or special district personnel who are officially deployed under the provisions of the Emergency Management Assistance Compact pursuant to an assignment of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be defended by the Attorney General or other legal counsel

provided by the state, and shall be indemnified subject to the same conditions and limitations applicable to state employees.

SEC. 126. Section 955.1 of the Government Code is amended to read:

955.1. (a) The science of earthquake prediction is developing rapidly and, although still largely in a research stage, ~~such~~ *these* predictions are now being initiated and are certain to continue into the future. Administrative procedures exist within the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to advise the Governor on the validity of earthquake predictions. Numerous important actions can be taken by state and local governments and special districts to protect life and property in response to earthquake predictions and associated warnings. It is the intent of this legislation to ensure that ~~such~~ *those* actions are taken in the public interest by government agencies acting in a responsible manner without fear of consequent financial liabilities.

(b) The Governor may, at his or her discretion, issue a warning as to the existence of an earthquake or volcanic prediction determined to have scientific validity. The state and its agencies and employees shall not be liable for any injury resulting from the issuance or nonissuance of a warning pursuant to this subdivision or for any acts or omissions in fact gathering, evaluation, or other activities leading up to the issuance or nonissuance of a warning.

(c) Public entities and public employees may, on the basis of a warning issued pursuant to subdivision (b), take, or fail or refuse to take, any action or execute or fail or refuse to execute any earthquake or volcanic prediction response plan with relation to the warning which is otherwise authorized by law. In taking, or failing or refusing to take, such action, neither public entities nor public employees shall be liable for any injuries caused thereby or for any injuries resulting from the preparation of, or failure or refusal to prepare, any earthquake hazard or damage prediction maps, plans for evacuation of endangered areas, and other plan elements.

(d) An earthquake or volcanic warning issued by the Governor pursuant to subdivision (b) is a sufficient basis for a declaration of a state of emergency or local emergency as defined by Section 8558. Public entities and public employees shall be immune from liability in accordance with all immunity provisions applicable during such state of emergency or local emergency.

SEC. 127. Section 3101 of the Government Code is amended to read:

3101. For the purpose of this chapter the term "disaster service worker" includes all public employees and all volunteers in any disaster council or emergency organization accredited by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*. The term "public employees" includes all persons employed by the state or any county, city, city and county, state agency or public district, excluding aliens legally employed.

SEC. 128. Section 3102 of the Government Code is amended to read:

3102. (a) All disaster service workers shall, before they enter upon the duties of their employment, take and subscribe to the oath or affirmation required by this chapter.

(b) In the case of intermittent, temporary, emergency or successive employments, then in the discretion of the employing agency, an oath taken and subscribed as required by this chapter shall be effective for the purposes of this chapter for all successive periods of employment which commence within one calendar year from the date of that subscription.

(c) Notwithstanding subdivision (b), the oath taken and subscribed by a person who is a member of an emergency organization sanctioned by a state agency or an accredited disaster council, whose members are duly enrolled or registered with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, or any accredited disaster council of any political subdivision, shall be effective for the period the person remains a member with that organization.

SEC. 129. Section 6253.4 of the Government Code is amended to read:

6253.4. (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Bureau of Real Estate

Department of Motor Vehicles

Department of Consumer Affairs
~~Department of Transportation~~
~~Department of Real Estate~~
Department of Corrections *and Rehabilitation*
Department of ~~the~~ *Corrections and Rehabilitation, Division of* Youth Authority
Department of Justice
Department of Insurance
Department of ~~Corporations~~ *Business Oversight*
Department of Managed Health Care
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Board of Equalization
State Department of Health Care Services
Employment Development Department
State Department of Public Health
State Department of Social Services
State Department of State Hospitals
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Transportation Agency
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Resources Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District
Department of Toxic Substances Control
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

SEC. 130. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of

the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1,

265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall

not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with

providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other ~~provision of~~ law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with

an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), and Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the

contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the ~~California Emergency Management Agency~~ *Office of Emergency Services* for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing

that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

This section shall not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section shall not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 131. Section 6254.23 of the Government Code is amended to read:

6254.23. Nothing in this chapter or any other provision of law shall require the disclosure of a risk assessment or railroad infrastructure protection program filed with the Public Utilities Commission, the Director of Homeland Security, and the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* pursuant to Article 7.3 (commencing with Section 7665) of Chapter 1 of Division 4 of the Public Utilities Code.

SEC. 132. Section 6276.26 of the Government Code is amended to read:

6276.26. Improper governmental activities reporting, confidentiality of identity of person providing information, Section 8547.5.

Improper governmental activities reporting, disclosure of information, Section 8547.6.

Industrial loan companies, confidentiality of financial information, Section 18496, Financial Code.

Industrial loan companies, confidentiality of investigation and examination reports, Section 18394, Financial Code.

Influenza vaccine, trade secret information and information relating to recipient of vaccine, Section 120155, Health and Safety Code.

In forma pauperis litigant, rules governing confidentiality of financial information, Section 68511.3.

Infrastructure information, exemption from disclosure for information voluntarily submitted to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, subdivision (ab), Section 6254.

In-Home Supportive Services Program, exemption from disclosure for information regarding persons paid by the state to provide in-home supportive services, Section 6253.2.

Initiative, referendum, recall, and other petitions, confidentiality of names of signers, Section 6253.5.

Insurance claims analysis, confidentiality of information, Section 1875.16, Insurance Code.

Insurance Commissioner, confidential information, Sections 735.5, 1067.11, 1077.3, and 12919, Insurance Code.

Insurance Commissioner, informal conciliation of complaints, confidential communications, Section 1858.02, Insurance Code.

Insurance Commissioner, information from examination or investigation, confidentiality of, Sections 1215.7, 1433, and 1759.3, Insurance Code.

Insurance Commissioner, writings filed with nondisclosure, Section 855, Insurance Code.

Insurance fraud reporting, information acquired not part of public record, Section 1873.1, Insurance Code.

Insurance licensee, confidential information, Section 1666.5, Insurance Code.

Insurer application information, confidentiality of, Section 925.3, Insurance Code.

Insurer financial analysis ratios and examination synopses, confidentiality of, Section 933, Insurance Code.

~~Integrated Waste Management Board~~ *Department of Resources Recycling and Recovery* information, prohibition against disclosure, Section 45982, Revenue and Taxation Code.

International wills, confidentiality of registration information filed with the Secretary of State, Section 6389, Probate Code.

Intervention in regulatory and ratemaking proceedings, audit of customer seeking and award, Section 1804, Public Utilities Code.

Investigation and security records, exemption from disclosure for records of the Attorney General, the Department of Justice, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, and state and local police agencies, subdivision (f), Section 6254.

Investigative consumer reporting agency, limitations on furnishing an investigative consumer report, Section 1786.12, Civil Code.

SEC. 133. Section 6276.38 of the Government Code is amended to read:

6276.38. Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.

Railroad infrastructure protection program, disclosure not required for risk assessments filed with the Public Utilities Commission, the ~~Secretary~~ *Director* of ~~California~~ Emergency ~~Management~~ *Services*, or the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, Section 6254.23.

Real estate broker, annual report to ~~Department~~ *Bureau* of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.

Real property, acquisition by state or local government, information relating to feasibility, subdivision (h), Section 6254.

Real property, change in ownership statement, confidentiality of, Section 27280.

Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.

Registered public obligations, inspection of records of security interests in, Section 5060.

Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.

Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.

Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.

Relocation assistance, confidential records submitted to a public entity by a business or farm operation, Section 7262.

Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4.

Report of probation officer, inspection, copies, Section 1203.05, Penal Code.

Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.

Reproductive health facilities, disclosure not required for personal information regarding employees, volunteers, board members, owners, partners, officers, and contractors of a reproductive health services facility who have provided requisite notification, Section 6254.18.

Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 6254.1.

Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 6254.1, Government Code, and Section 1808.21, Vehicle Code.

Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.

Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.

Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.

Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.

Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.

Reward by governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.

Safe surrender site, confidentiality of information pertaining to a parent or individual surrendering a child, Section 1255.7, Health and Safety Code.

SEC. 134. Section 7465 of the Government Code is amended to read:

7465. For the purposes of this chapter:

(a) The term "financial institution" includes state and national banks, state and federal savings associations, trust companies, industrial loan companies, and state and federal credit unions. Such term shall not include a title insurer while engaging in the conduct of the "business of title insurance" as defined by Section 12340.3 of the Insurance Code, an underwritten title company, or an escrow company.

(b) The term "financial records" means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution.

(c) The term "person" means an individual, partnership, corporation, limited liability company, association, trust or any other legal entity.

(d) The term "customer" means any person who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary.

(e) The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, including the Legislature.

(f) The term "local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(g) The term "supervisory agency" means any of the following:

(1) The Department of Financial Institutions.
(2) The Controller.
(3) The Administrator of Local Agency Security.
(4) The ~~Department of Real Estate~~ *Bureau of Real Estate*.
(5) The Department of Insurance.
(h) The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or district attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.
(i) The term "subpoena" includes subpoena duces tecum.
SEC. 135. Section 8550 of the Government Code is amended to read:
8550. The state has long recognized its responsibility to mitigate the effects of natural, manmade, or war-caused emergencies ~~which~~ *that* result in conditions of disaster or in extreme peril to life, property, and the resources of the state, and generally to protect the health and safety and preserve the lives and property of the people of the state. To ensure that preparations within the state will be adequate to deal with such emergencies, it is hereby found and declared to be necessary:
(a) To confer upon the Governor and upon the chief executives and governing bodies of political subdivisions of this state the emergency powers provided herein; and to provide for state assistance in the organization and maintenance of the emergency programs of such political subdivisions.
(b) To provide for a state ~~agency~~ *office* to be known and referred to as the ~~California~~ *Office of* Emergency ~~Management Agency (Cal EMA)~~ *Services*, within the office of the Governor, and to prescribe the powers and duties of the ~~secretary~~ *director* of that ~~agency~~ *office*.
(c) To provide for the assignment of functions to state ~~agencies~~ *entities* to be performed during an emergency and for the coordination and direction of the emergency actions of ~~such agencies~~ *those entities*.
(d) To provide for the rendering of mutual aid by the state government and all its departments and agencies and by the political subdivisions of this state in carrying out the purposes of this chapter.

(e) To authorize the establishment of such organizations and the taking of such actions as are necessary and proper to carry out the provisions of this chapter.

It is further declared to be the purpose of this chapter and the policy of this state that all emergency services functions of this state be coordinated as far as possible with the comparable functions of its political subdivisions, of the federal government including its various departments and agencies, of other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities for dealing with any emergency that may occur.

SEC. 136. Section 8570.5 of the Government Code is amended to read:

8570.5. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall develop a guidance document to the state emergency plan to specify the response of the state and its political subdivisions to agriculture-related disasters. This document shall be completed by January 2002, and updated by January 2009, and shall include, but not be limited to, all of the following:

(a) The roles and responsibilities of the county agricultural commissioners.

(b) The roles and responsibilities of the Department of Agriculture and other relevant state agencies that are involved in the response to agriculture-related disasters.

(c) Coordination of initial and ongoing crop damage assessments.

(d) Disaster assistance between the time of the request for a federal disaster declaration and issuance of a federal declaration.

(e) State assistance available if a requested federal declaration is not issued.

(f) State assistance under a United States Department of Agriculture designation rather than a federal declaration.

(g) State assistance for long-term unemployment in areas with high unemployment rates prior to an emergency.

(h) Provision for the removal and elimination of extraordinary numbers of dead livestock for purposes of protecting public health and safety.

(i) Strategies to assist in the development of an integrated and coordinated response by community-based organizations to the victims of agriculture-related disasters.

(j) Procedures for the decontamination of individuals who have been or may have been exposed to hazardous materials, which may vary depending on the hazards posed by a particular hazardous material. The report shall specify that individuals shall be assisted in a humanitarian manner.

(k) Integration of various local and state emergency response plans, including, but not limited to, plans that relate to hazardous materials, oil spills, public health emergencies, and general disasters.

SEC. 137. Section 8574.17 of the Government Code is amended to read:

8574.17. (a) (1) A state toxic disaster contingency plan established pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for the designation of a lead agency to direct strategy to ameliorate the effects of a toxic disaster, for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

(2) Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs or in a local fire protection agency as provided by Section 2454 of the Vehicle Code. During the preparation of the toxic disaster contingency plan, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the toxic disaster contingency plan.

SEC. 138. Section 8574.20 of the Government Code is amended to read:

8574.20. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall manage the California Hazardous Substances Incident Response Training and Education Program to provide approved classes in hazardous substance response, taught by trained instructors, and to certify students who have completed these classes. To carry out this program, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall do all of the following:

(a) Adopt regulations necessary to implement the program.

(b) Establish a training and education program by developing the curriculum to be used in the program in colleges, academies, the California Specialized Training Institute, and other educational institutions, as specified in Section 8574.21.

(c) Establish recommended minimum standards for training emergency response personnel and instructors, including, but not limited to, fire, police, and environmental health personnel.

(d) Make available a training and education program in the use of hazardous substances emergency rescue, safety, and monitoring equipment, on a voluntary basis, at the California Specialized Training Institute.

(e) Train and certify instructors at the California Specialized Training Institute according to standards and procedures developed by the curriculum development advisory committee, as specified in Section 8588.10.

(f) Approve classes, as meeting the requirements of the program, if the classes meet the curriculum developed by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* pursuant to Section 8574.21 and the instructor received training and certification at the California Specialized Training Institute, as specified in subdivision (e).

(g) Certify students who have successfully completed a class approved as meeting the requirements of the program.

(h) Review and revise, as necessary, the program.

(i) Establish and collect admission fees and other fees that may be necessary to be charged for advanced or specialized training given at the California Specialized Training Institute. These fees shall be used to offset costs incurred pursuant to this article.

SEC. 139. Section 8574.21 of the Government Code is amended to read:

8574.21. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall develop the curriculum to be used in classes that meet the program requirements and shall adopt standards and procedures for training instructors at the California Specialized Training Institute.

(b) The curriculum for the training and education program established pursuant to this article shall include all of the following aspects of hazardous substance incident response actions:

(1) First responder training.

(2) On-scene manager training.

(3) Hazardous substance incident response training for management personnel.

(4) Hazardous materials specialist training that equals or exceeds the standards of the National Fire Protection Association.

(5) Environmental monitoring.

(6) Hazardous substance release investigations.

(7) Hazardous substance incident response activities at ports.

(c) The curriculum development advisory committee described in Section 8588.10 shall advise the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* on the development of course curricula and the standards and procedures specified in subdivision (a). In advising the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, the committee shall do the following:

(1) Assist, and cooperate with, representatives of the Board of Governors of the California Community Colleges in developing the course curricula.

(2) Ensure that the curriculum developed pursuant to this section is accredited by the State Board of Fire Services.

(3) Define equivalent training and experience considered as meeting the initial training requirements as specified in subdivision (a) that existing employees might have already received from actual experience or formal education undertaken, and which would qualify as meeting the requirements established pursuant to this article.

(d) This article does not affect the authority of the State Fire Marshal granted pursuant to Section 13142.4 or 13159 of the Health and Safety Code.

(e) Upon completion of instructor training and certification pursuant to subdivision (e) of Section 8574.20 by any employee of the Department of the California Highway Patrol, the Commissioner of the California Highway Patrol may deem any training programs taught by that employee to be equivalent to any training program meeting the requirements established pursuant to this article.

SEC. 140. Section 8574.22 of the Government Code is amended to read:

8574.22. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* may hire professional and clerical staff pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2). However, any person employed pursuant to this section shall be employed only at the California Specialized Training Institute.

SEC. 141. Section 8575 of the Government Code is amended to read:

8575. For the purposes of the California Disaster and Civil Defense Master Mutual Aid Agreement, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* will serve as the State Disaster Council.

SEC. 142. Section 8584.1 of the Government Code is amended to read:

8584.1. (a) It is the intent of the Legislature that the state have an urban heavy rescue capability in the event of a major earthquake. It is also the intent of the Legislature that the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and the State Fire Marshal's Office pursue the necessary funding to carry out this article through the normal budget process.

(b) The Fire and Rescue Division of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall acquire and maintain urban heavy rescue units and transportable caches of search and rescue gear, including hand tools and protective gear. The division shall position the units and caches to ensure a rapid response of personnel and equipment anywhere in the state, and ensure that a unit will be available on the scene within one hour of a major earthquake.

(c) The State Fire Marshal's Office shall coordinate the training of personnel in the use of the units and equipment in cooperation

with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

SEC. 143. Section 8585 of the Government Code is amended to read:

8585. (a) (1) There is in state government, *within the office of the Governor,* the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be under the supervision of the ~~Secretary~~ *Director* of ~~the~~ Emergency ~~Management Agency~~ *Services*, who shall have all rights and powers of a head of an ~~agency~~ *office* as provided by this code, and shall be referred to as the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

(2) Unless the context clearly requires otherwise, whenever the term ~~"Office of~~ *"California* Emergency ~~Services"~~ *Management Agency"* appears in any statute, regulation, or contract, *or in any other code,* it shall be construed to refer to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, and whenever the term ~~"Director~~ *"Secretary* of Emergency ~~Services"~~ *Management"* or the ~~"Director~~ *"Secretary* of the ~~Office of~~ Emergency ~~Services"~~ *Management Agency"* appears in statute, regulation, or contract, *or in any other code,* it shall be construed to refer to the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

(3) Unless the context clearly requires otherwise, whenever the term "Director of Homeland Security" or "Office of Homeland Security" appears in any statute, regulation, or contract, *or in any other code,* it shall be construed to refer to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, and whenever the term "Director of Homeland Security" or "Director of the Office of Homeland Security" appears in any statute, regulation, or contract, *or in any other code,* it shall be construed to refer to the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

(b) (1) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services shall* succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the ~~Office of~~ *California* Emergency ~~Services~~ *Management Agency* and the ~~Director~~ *Secretary* of ~~the Office of~~ Emergency ~~Services~~ *Management*, respectively.

(2) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and the ~~Secretary~~ *Director* of Emergency ~~Management~~

Services shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Office of Homeland Security and the Director of Homeland Security, respectively.

(c) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be considered a law enforcement organization as required for receipt of criminal intelligence information pursuant to subdivision (f) of Section 6254 ~~of the Government Code~~ by persons employed within the ~~agency~~ *office* whose duties and responsibilities require the authority to access criminal intelligence information.

(d) Persons employed by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* whose duties and responsibilities require the authority to access criminal intelligence information shall be furnished state summary criminal history information as described in Section 11105 of the Penal Code, if needed in the course of their duties.

(e) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property.

(f) Notwithstanding any other ~~provision of~~ law, nothing in this section shall authorize an employee of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to access criminal intelligence information under subdivision (c) or (d) for the purpose of determining eligibility for, or providing access to, disaster-related assistance and services.

SEC. 144. Section 8585.05 of the Government Code is amended to read:

8585.05. Unless the context otherwise requires, for purpose of this article, the following definitions apply:

(a) "Agency" *or "office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(b) ~~"Secretary" means~~ *"California Emergency Management Agency" means the Office of Emergency Services.*

(c) "Director" or "secretary" means the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

SEC. 145. Section 8585.1 of the Government Code is amended to read:

8585.1. (a) The ~~secretary~~ *director* shall be appointed by, and hold office at the pleasure of, the Governor. The appointment of the ~~secretary~~ *director* is subject to confirmation by the Senate. The ~~secretary~~ *director* shall coordinate all state disaster response, emergency planning, emergency preparedness, disaster recovery, disaster mitigation, and homeland security activities.

(b) The ~~secretary~~ *director* shall receive an annual salary as set forth in Section ~~11550~~ *11552*.

(c) The Governor may appoint ~~an undersecretary~~ *a deputy director* of the ~~agency~~ *office*. The ~~undersecretary~~ *deputy director* shall hold office at the pleasure of the Governor.

(d) All positions exempt from civil service that existed in the predecessor agencies shall be transferred to the ~~agency~~ *office*.

(e) Neither state nor federal funds may be expended to pay the salary or benefits of any deputy or employee who may be appointed by the ~~secretary~~ *director* or ~~undersecretary~~ *deputy director* pursuant to Section 4 of Article VII of the California Constitution.

SEC. 146. Section 8585.2 of the Government Code is amended to read:

8585.2. (a) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the ~~agency~~ *office* or engaged in the administration of law, the administration of which ~~is transferred to~~ *was vested in* the ~~agency~~ *former California Emergency Management Agency*, are transferred to the ~~agency~~ *office*. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the ~~agency~~ *office*.

(b) The property of any agency or department related to functions *formerly* transferred to*, or vested in* the California Emergency Management Agency, is transferred to the ~~agency~~ *office*. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(c) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law *formerly* transferred to the ~~agency~~ *California Emergency Management Agency* shall be transferred to the ~~agency~~ *office* for use for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 147. Section 8585.5 of the Government Code is amended to read:

8585.5. The ~~agency~~ *office* shall establish by rule and regulation various classes of disaster service workers and the scope of the duties of each class. The ~~agency~~ *office* shall also adopt rules and regulations prescribing the manner in which disaster service workers of each class are to be registered. All of the rules and regulations shall be designed to facilitate the payment of workers' compensation.

SEC. 148. Section 8585.7 of the Government Code is amended to read:

8585.7. The ~~agency~~ *office* may certify the accredited status of local disaster councils, subject to the requirements of Section 8612.

SEC. 149. Section 8586 of the Government Code is amended to read:

8586. The Governor shall assign all or part of his or her powers and duties under this chapter to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

SEC. 150. Section 8587.7 of the Government Code is amended to read:

8587.7. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, in cooperation with the State Department of Education, the Department of General Services, and the Seismic Safety Commission, shall develop an educational pamphlet for use by grades Kindergarten to 14 personnel to identify and mitigate the risks posed by nonstructural earthquake hazards.

(b) The ~~agency~~ *office* shall print and distribute the pamphlet to the governing board of each school district and community college district in the state, along with a copy of the current edition of the ~~agency's~~ *office's* school emergency response publication. The ~~agency~~ *office* shall also make the pamphlet or the current edition

of the ~~agency's~~ *office's* school emergency response publication available to a private elementary or secondary school upon request.

(c) The ~~agency~~ *office*, as soon as feasible, shall make the pamphlet and the current edition of the ~~agency's~~ *office's* school emergency response publication available by electronic means, including, but not limited to, the Internet.

SEC. 151. Section 8588 of the Government Code is amended to read:

8588. Whenever conditions exist within any region or regions of the state ~~which~~ *that* warrant the proclamation by the Governor of a state of emergency and the Governor has not acted under the provisions of Section 8625, by reason of the fact that the Governor has been inaccessible, the ~~secretary~~ *director* may proclaim the existence of a state of emergency in the name of the Governor as to any region or regions of the state. Whenever the ~~secretary~~ *director* has so proclaimed a state of emergency, that action shall be ratified by the Governor as soon as the Governor becomes accessible, and in the event the Governor does not ratify the action, the Governor shall immediately terminate the state of emergency as proclaimed by the ~~secretary~~ *director*.

SEC. 152. Section 8588.1 of the Government Code is amended to read:

8588.1. (a) The Legislature finds and declares that this state can only truly be prepared for the next disaster if the public and private sector collaborate.

(b) The ~~agency~~ *office* may, as appropriate, include private businesses and nonprofit organizations within its responsibilities to prepare the state for disasters under this chapter. All participation by businesses and nonprofit associations in this program shall be voluntary.

(c) The ~~agency~~ *office* may do any of the following:

(1) Provide guidance to business and nonprofit organizations representing business interests on how to integrate private sector emergency preparedness measures into governmental disaster planning programs.

(2) Conduct outreach programs to encourage business to work with governments and community associations to better prepare the community and their employees to survive and recover from disasters.

(3) Develop systems so that government, businesses, and employees can exchange information during disasters to protect themselves and their families.

(4) Develop programs so that businesses and government can work cooperatively to advance technology that will protect the public during disasters.

(d) The ~~agency~~ *office* may share facilities and systems for the purposes of subdivision (b) with the private sector to the extent the costs for their use are reimbursed by the private sector.

(e) Proprietary information or information protected by state or federal privacy laws shall not be disclosed under this program.

(f) Notwithstanding Section 11005, donations and private grants may be accepted by the ~~agency~~ *office* and shall not be subject to Section 11005.

(g) The Disaster Resistant Communities Fund is hereby created in the State Treasury. Upon appropriation by the Legislature, the ~~secretary~~ *office* may expend the money in the account for the costs associated within this section.

(h) This section shall be implemented only to the extent that in-kind contributions or donations are received from the private sector, or grant funds are received from the federal government, for these purposes.

SEC. 153. Section 8588.2 of the Government Code is amended to read:

8588.2. (a) The ~~agency~~ *office* may establish a statewide registry of private businesses and nonprofit organizations that are interested in donating services, goods, labor, equipment, resources, or dispensaries or other facilities to further the purposes of Section 8588.1.

(b) If the ~~agency~~ *office* establishes a statewide registry pursuant to subdivision (a), the agency shall create and implement protocols and procedures for inclusion onto the statewide registry that do, but are not limited to, all of the following:

(1) Establish eligibility requirements for a private business or nonprofit organization to be included on the statewide registry.

(2) Require the services, goods, labor, equipment, resources, or dispensaries or other facilities donated by a private business or nonprofit organization included on the statewide registry to be provided at no cost to state governmental entities or the victims of emergencies and disasters.

(3) Require the services, goods, labor, equipment, resources, or dispensaries or other facilities donated by a private business or nonprofit organization included on the statewide registry to be safely collected, maintained, and managed.

(4) Require that federal, state, and local governmental entities and nonprofit organizations that are engaged in assisting communities prepare for, respond to, or recover from emergencies and disasters have access to the statewide registry.

(c) A private business or nonprofit organization included on the statewide registry shall reasonably determine all of the following:

(1) Donated services, goods, labor, equipment, resources, or dispensaries or other facilities comply with all applicable federal and state safety laws and licensing requirements.

(2) Donated services, goods, labor, equipment, resources, or dispensaries or other facilities have not been altered, misbranded, or stored under conditions contrary to the standards set forth under federal or state laws or by the product manufacturer.

(3) Donated medicine shall be unopened, in tamper-resistant packaging or modified unit dose containers that meet United States Pharmacopeia standards, and show lot numbers and expiration dates. Medicine that does not meet these standards shall not be donated.

SEC. 154. Section 8588.3 of the Government Code is amended to read:

8588.3. (a) The Legislature finds and declares that it is the responsibility of the State of California to protect and preserve the right of its citizens to a safe and peaceful existence. To accomplish this goal and to minimize the destructive impact of disasters and other massive emergencies, the actions of numerous public agencies must be coordinated to effectively manage all four phases of emergency activity: preparedness, mitigation, response, and recovery. In order to ensure that the state's response to disasters or massive emergencies is effective, specialized training is necessary.

(b) The California Specialized Training Institute of the office of the Adjutant General is hereby transferred to the ~~agency~~ *Office of Emergency Services*. The institute shall assist the Governor in providing, pursuant to subdivision (f) of Section 8570, training to state agencies, cities, and counties in their planning and preparation for disasters.

(c) The ~~secretary~~ *director* may solicit, receive, and administer funds or property from federal, state, or other public agency sources for the support and operation of the institute.

(d) The ~~secretary~~ *director* may solicit and receive firearms, other weaponry, explosive materials, chemical agents, and other items confiscated by or otherwise in the possession of law enforcement officers as donations to the institute if he or she deems them to be appropriate for the institute's training purposes.

(e) Any moneys received by the ~~secretary~~ *director* from charges or fees imposed in connection with the operation of the institute shall be deposited in the General Fund.

SEC. 155. Section 8588.5 of the Government Code is amended to read:

8588.5. To promote an increase in the number of trained disaster search dog teams, the ~~agency~~ *office* shall do all of the following:

(a) Provide instruction to California disaster dog trainers in Swiss techniques.

(b) Work to secure authorization to conduct training for disaster search dog teams at existing facilities operated by the California National Guard and the Department of Transportation on the grounds of Camp San Luis Obispo.

(c) Engage in recruiting activities for the purpose of increasing the number of disaster search dog teams in southern California.

(d) Reimburse disaster search dog handlers and instructors for the costs of their travel and that of their dogs to training facilities within California.

SEC. 156. Section 8588.7 of the Government Code is amended to read:

8588.7. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall procure mobile communication translators to enable mutual-aid emergency response agencies to communicate effectively while operating on incompatible frequencies.

(b) Translators shall be located in the San Francisco Bay Area and the Los Angeles metropolitan area, made ready for use by local public safety officials by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, and provided to the appropriate state-established mutual-aid region pursuant to Section 8600.

(c) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall implement this section only to the extent that funds

are appropriated to the ~~agency~~ *office* for this purpose in the Budget Act or in other legislation.

SEC. 157. Section 8588.10 of the Government Code is amended to read:

8588.10. (a) The ~~secretary~~ *director* shall establish a Curriculum Development Advisory Committee to advise the ~~agency~~ *office* on the development of course curricula, as specified by the ~~secretary~~ *director*.

(b) The committee shall be chaired by the ~~secretary~~ *director*, who will appoint members as appropriate. In appointing members to the committee, the ~~secretary~~ *director* shall include representatives from the following:

(1) State public safety, health, first responder, and emergency services departments or agencies, as deemed appropriate by the ~~secretary~~ *director*.

(2) Local first responder agencies.

(3) Local public safety agencies.

(4) Nonprofit organizations, as deemed appropriate by the ~~secretary~~ *director*.

(5) Any other state, local, tribal, or nongovernmental organization determined by the ~~secretary~~ *director* to be appropriate.

SEC. 158. Section 8588.11 of the Government Code is amended to read:

8588.11. (a) The ~~agency~~ *office* shall contract with the California Fire Fighter Joint Apprenticeship Program to develop a fire service specific course of instruction on the responsibilities of first responders to terrorism incidents. The course shall include the criteria for the curriculum content recommended by the Curriculum Development Advisory Committee established pursuant to Section 8588.10 to address the training needs of both of the following:

(1) Firefighters in conformance with the standards established by the State Fire Marshal.

(2) Paramedics and other emergency medical services fire personnel in conformance with the standards established by the ~~State~~ Emergency Medical Services Authority.

(b) The course of instruction shall be developed in consultation with individuals knowledgeable about consequence management that addresses the topics of containing and mitigating the impact of a terrorist incident, including, but not limited to, a terrorist act

using hazardous materials, as well as weapons of mass destruction, including any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as those terms are defined in Section 11417 of the Penal Code, by techniques including, but not limited to, rescue, firefighting, casualty treatment, and hazardous materials response and recovery.

(c) The contract shall provide for the delivery of training by the California Fire Fighter Joint Apprenticeship Program through reimbursement contracts with the state, local, and regional fire agencies who may, in turn, contract with educational institutions.

(d) To maximize the availability and delivery of training, the California Fire Fighter Joint Apprenticeship Program shall develop a course of instruction to train the trainers in the presentation of the first responder training of consequence management for fire service personnel.

SEC. 159. Section 8588.15 of the Government Code is amended to read:

8588.15. (a) The ~~secretary~~ *director* shall appoint representatives of the disabled community to serve on the evacuation, sheltering, communication, recovery, and other pertinent Standardized Emergency Management System committees, including one representative to the Technical Working Group. Representatives of the disabled community shall, to the extent practicable, be from the following groups:

(1) Persons who are blind or visually impaired.

(2) Persons with sensory or cognitive disabilities.

(3) Persons with physical disabilities.

(b) Within the Standardized Emergency Management System structure, the ~~secretary~~ *director* shall ensure, to the extent practicable, that the needs of the disabled community are met by ensuring all committee recommendations regarding preparedness, planning, and procedures relating to emergencies include the needs of people with disabilities.

(c) The ~~secretary~~ *director* shall prepare and disseminate sample brochures and other relevant materials on preparedness, planning, and procedures relating to emergency evacuations that include the needs of the disabled community, and shall work with nongovernmental associations and entities to make them available in accessible formats, including, but not limited to, Braille, large print, and electronic media.

(d) The ~~secretary~~ *director* and the State Fire Marshal's office shall seek research funding to assist in the development of new technologies and information systems that will assist in the evacuation of the groups designated in subdivision (a) during emergency and disaster situations.

(e) It is the intent of the Legislature for the purpose of implementing this section and to the extent permitted by federal law, that funds may be used from the Federal Trust Fund from funds received from the federal Department of Homeland Security for implementation of homeland security programs.

SEC. 160. Section 8589 of the Government Code is amended to read:

8589. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be permitted ~~such~~ *the* use of all state and local fair properties as conditions require.

SEC. 161. Section 8589.1 of the Government Code is amended to read:

8589.1. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall plan to establish the State Computer Emergency Data Exchange Program (SCEDEP), which shall be responsible for collection and dissemination of essential data for emergency management.

(b) Participating agencies in SCEDEP shall include the Department of Water Resources, Department of Forestry and Fire Protection, Department of the California Highway Patrol, Department of Transportation, Emergency Medical Services Authority, the State Fire Marshal, State Department of Public Health, and any other state agency that collects critical data and information that affects emergency response.

(c) It is the intent of the Legislature that the State Computer Emergency Data Exchange Program facilitate communication between state agencies and that emergency information be readily accessible to city and county emergency services offices. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall develop policies and procedures governing the collection and dissemination of emergency information and shall recommend or design the appropriate software and programs necessary for emergency communications with city and county emergency services offices.

SEC. 162. Section 8589.2 of the Government Code is amended to read:

8589.2. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, in consultation with the California Highway Patrol and other state and local agencies, shall establish a statewide plan for the delivery of hazardous material mutual aid.

(b) Within 180 days of the adoption of a plan by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, an entity shall only be considered a candidate for training or equipment funds provided by the state for hazardous material emergency response when that entity is a signatory to the plan established under this section.

(1) For the purpose of this chapter "hazardous material emergency response" includes, but is not limited to, assessment, isolation, stabilization, containment, removal, evacuation, neutralization, transportation, rescue procedures, or other activities necessary to ensure the public safety during a hazardous materials emergency.

(2) For the purpose of this chapter, "hazardous material" is defined as in Section 25501 of the Health and Safety Code.

(c) Entities providing hazardous material emergency response services under this chapter shall be exempt from the fee restriction of Section 6103.

SEC. 163. Section 8589.5 of the Government Code is amended to read:

8589.5. (a) Inundation maps showing the areas of potential flooding in the event of sudden or total failure of any dam, the partial or total failure of which the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* determines, after consultation with the Department of Water Resources, would result in death or personal injury, shall be prepared and submitted as provided in this subdivision within six months after the effective date of this section, unless previously submitted or unless the time for submission of those maps is extended for reasonable cause by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*. The local governmental organization, utility, or other public or private owner of any dam so designated shall submit to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* one map that shall delineate potential flood zones that could result in the event of dam failure when the reservoir is at full capacity, or

if the local governmental organization, utility, or other public or private owner of any dam shall determine it to be desirable, he or she shall submit three maps that shall delineate potential flood zones that could result in the event of dam failure when the reservoir is at full capacity, at median-storage level, and at normally low-storage level. After submission of copies of the map or maps, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall review the map or maps, and shall return any map or maps that do not meet the requirements of this subdivision, together with recommendations relative to conforming to the requirements. Maps rejected by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be revised to conform to those recommendations and resubmitted. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall keep on file those maps that conform to the provisions of this subdivision. Maps approved pursuant to this subdivision shall also be kept on file with the Department of Water Resources. The owner of a dam shall submit final copies of those maps to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* that shall immediately submit identical copies to the appropriate public safety agency of any city, county, or city and county likely to be affected.

(b) (1) Based upon a review of inundation maps submitted pursuant to subdivision (a) or based upon information gained by an onsite inspection and consultation with the affected local jurisdiction when the requirement for an inundation map is waived pursuant to subdivision (d), the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall designate areas within which death or personal injury would, in its determination, result from the partial or total failure of a dam. The appropriate public safety agencies of any city, county, or city and county, the territory of which includes any of those areas, may adopt emergency procedures for the evacuation and control of populated areas below those dams. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall review the procedures to determine whether adequate public safety measures exist for the evacuation and control of populated areas below the dams, and shall make recommendations with regard to the adequacy of those procedures to the concerned public safety agency. In conducting the review, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall consult with appropriate state and local agencies.

(2) Emergency procedures specified in this subdivision shall conform to local needs, and may be required to include any of the following elements or any other appropriate element, in the discretion of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*:

(A) Delineation of the area to be evacuated.

(B) Routes to be used.

(C) Traffic control measures.

(D) Shelters to be activated for the care of the evacuees.

(E) Methods for the movement of people without their own transportation.

(F) Identification of particular areas or facilities in the flood zones that will not require evacuation because of their location on high ground or similar circumstances.

(G) Identification and development of special procedures for the evacuation and care of people from unique institutions.

(H) Procedures for the perimeter and interior security of the area, including such things as passes, identification requirements, and antilooting patrols.

(I) Procedures for the lifting of the evacuation and reentry of the area.

(J) Details as to which organizations are responsible for the functions described in this paragraph and the material and personnel resources required.

(3) It is the intent of the Legislature to encourage each agency that prepares emergency procedures to establish a procedure for their review every two years.

(c) "Dam," as used in this section, has the same meaning as specified in Sections 6002, 6003, and 6004 of the Water Code.

(d) Where both of the following conditions exist, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* may waive the requirement for an inundation map:

(1) Where the effects of potential inundation in terms of death or personal injury, as determined through onsite inspection by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* in consultation with the affected local jurisdictions, can be ascertained without an inundation map.

(2) Where adequate evacuation procedures can be developed without benefit of an inundation map.

(e) If development should occur in any exempted area after a waiver has been granted, the local jurisdiction shall notify the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* of that development. All waivers shall be reevaluated every two years by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(f) A notice may be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to inundation areas within the county.

SEC. 164. Section 8589.6 of the Government Code is amended to read:

8589.6. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall develop model guidelines for local government agencies and community-based organizations planning to develop a disaster registry program. Adoption of the model guidelines shall be voluntary. Local governmental agencies or community-based organizations wishing to establish a disaster registry program may consult with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* for further guidance.

(b) The guidelines required by subdivision (a) shall address, at a minimum, all of the following issues:

(1) A purpose statement specifying that the intent of the registry is not to provide immediate assistance during a local, state, or national disaster, to those who are registered, but to encourage that those registered will receive a telephone call or visit from neighborhood disaster volunteers or other organizations specified in the final local plan as soon as possible after the disaster in order to check on their well-being and ask if they need assistance. This statement shall also specify that persons registered should be prepared to be self-sufficient for at least 72 hours.

(2) A list of persons eligible for the registry. This list shall include, but not be limited to, disabled persons, including those with developmental disabilities, the elderly, those for whom English is not a first language, persons who are unskilled or deficient in the English language, long-term health care facilities, residential community care facilities, and residential care facilities for the elderly.

(3) A statement specifying that the party responsible for responding to those registered will not be held liable for not responding.

(4) A plan for ensuring that hard data is available if computers shut down.

(5) A recommendation for those persons or organizations that would be appropriate to respond to persons on the disaster registry, and a plan for training the responsible party.

(6) A plan for community outreach to encourage those eligible to participate.

(7) A plan for distribution of preparedness materials to those eligible to participate in the disaster registry.

(8) Recommendations and assistance for obtaining federal and state moneys to establish a disaster registry.

(9) A recommendation that organizations currently providing services to persons who are eligible for the disaster registry program be encouraged to alter their information form to include a space on the form where the person has the option of registering for the program. By checking the box and giving approval to be registered for the program the person waives confidentiality rights. Despite this waiver of confidentiality rights, local government agencies and community-based organizations planning to develop a disaster registry are encouraged to do everything possible to maintain the confidentiality of their registries. Organizations that currently have lists of people who would be eligible to register for the program should be encouraged to share this information with persons establishing a disaster registry.

SEC. 165. Section 8589.7 of the Government Code is amended to read:

8589.7. (a) In carrying out its responsibilities pursuant to subdivision (b) of Section 8574.17, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall serve as the central point in state government for the emergency reporting of spills, unauthorized releases, or other accidental releases of hazardous materials and shall coordinate the notification of the appropriate state and local administering agencies that may be required to respond to those spills, unauthorized releases, or other accidental releases. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* is the only state ~~agency~~ *entity* required to make the notification required by subdivision (b).

(b) Upon receipt of a report concerning a spill, unauthorized release, or other accidental release involving hazardous materials, as defined in Section 25501 of the Health and Safety Code, or concerning a rupture of, or an explosion or fire involving, a pipeline reportable pursuant to Section 51018, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall immediately inform the following agencies of the incident:

(1) For an oil spill reportable pursuant to Section 8670.25.5, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall inform the administrator for oil spill response, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil.

(2) For a rupture, explosion, or fire involving a pipeline reportable pursuant to Section 51018, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall inform the State Fire Marshal.

(3) For a discharge in or on any waters of the state of a hazardous substance or sewage reportable pursuant to Section 13271 of the Water Code, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall inform the appropriate California regional water quality control board.

(4) For a spill or other release of petroleum reportable pursuant to Section 25270.8 of the Health and Safety Code, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall inform the local administering agency that has jurisdiction over the spill or release.

(5) For a crude oil spill reportable pursuant to Section 3233 of the Public Resources Code, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall inform the Division of Oil, Gas, and Geothermal Resources and the appropriate California regional water quality control board.

(c) This section does not relieve a person who is responsible for an incident specified in subdivision (b) from the duty to make an emergency notification to a local agency, or the 911 emergency system, under any other law.

(d) A person who is subject to Section 25507 of the Health and Safety Code shall immediately report all releases or threatened releases pursuant to that section to the appropriate local administering agency and each local administering agency shall

notify the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and businesses in their jurisdiction of the appropriate emergency telephone number that can be used for emergency notification to the administering agency on a 24-hour basis. The administering agency shall notify other local agencies of releases or threatened releases within their jurisdiction, as appropriate.

(e) No facility, owner, operator, or other person required to report an incident specified in subdivision (b) to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be liable for any failure of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to make a notification required by this section or to accurately transmit the information reported.

SEC. 166. Section 8589.9 of the Government Code is amended to read:

8589.9. (a) The Legislature finds and declares that there is a growing need to find new ways to acquire firefighting apparatus and equipment for use by local agencies. Local agencies, particularly those that serve rural areas, have had, and are likely to continue to have, difficulty acquiring firefighting apparatus and equipment. The Legislature further finds and declares that this situation presents a statewide problem for the protection of the public safety.

(b) In enacting this article, the Legislature intends to create new ways for the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to help local agencies acquire firefighting apparatus and equipment. Through the identification of available apparatus and equipment, the acquisition of new and used apparatus and equipment, the refurbishing and resale of used apparatus and equipment, and assisting the financing of resales, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* will help local agencies meet public safety needs.

SEC. 167. Section 8589.10 of the Government Code is amended to read:

8589.10. As used in this article:

(a) "Acquire" means acquisition by purchase, grant, gift, or any other lawful means.

(b) ~~"Agency"~~ *"Office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(c) "Firefighting apparatus and equipment" means any vehicle and its associated equipment ~~which~~ *that* is designed and intended

for use primarily for firefighting. "Firefighting apparatus and equipment" does not include vehicles that are designed and intended for use primarily for emergency medical services, rescue services, communications and command operations, or hazardous materials operations.

(d) "Indirect expenses" means those items that are identified as indirect costs in the federal Office of Management and Budget, Circular A-87 on January 1, 1985.

(e) "Local agency" means any city, county, special district, or any joint powers agency composed exclusively of those agencies, that provides fire suppression services. "Local agency" also includes a fire company organized pursuant to Part 4 (commencing with Section 14825) of Division 12 of the Health and Safety Code.

(f) "Rural area" means territory that is outside of any urbanized area designated by the United States Census Bureau from the 1980 federal census.

(g) ~~"Secretary"~~ *"Director"* means the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

SEC. 168. Section 8589.11 of the Government Code is amended to read:

8589.11. The ~~agency~~ *office* may acquire new or used firefighting apparatus and equipment for resale to local agencies. If the apparatus or equipment is in a used condition, the ~~agency~~ *office* may contract with the Prison Industry Authority to repair or refurbish the apparatus or equipment to acceptable fire service standards before resale. The resale price shall recover the ~~agency's~~ *office's* cost of acquisition, repairing, refurbishing, and associated indirect expenses.

SEC. 169. Section 8589.12 of the Government Code is amended to read:

8589.12. If a state agency, including the ~~agency~~ *office*, proposes to make firefighting apparatus or equipment which is currently owned and operated by the state available to the ~~agency~~ *office* for use under this article, the Department of General Services shall determine whether there is any immediate need by any state agency for the apparatus or equipment. If there is no immediate need, the Department of General Services shall release the apparatus or equipment to the ~~agency~~ *office*. If the office acquires firefighting apparatus or equipment from another state agency, the ~~agency~~ *office* shall pay the fair market value of the apparatus or equipment,

as determined by the Department of General Services, unless the state agency agrees to a lesser payment.

SEC. 170. Section 8589.13 of the Government Code is amended to read:

8589.13. (a) The ~~agency~~ *office* shall give first priority for the sale of new or used firefighting apparatus and equipment to a local agency that serves a rural area, and is authorized to contract with a local agency that serves a rural area for this purpose. The ~~agency~~ *office* shall give second priority for the sale of new or used firefighting apparatus and equipment to any local agency. If after reasonable efforts by the ~~agency~~ *office* to sell new or used firefighting apparatus and equipment to any local agency, and not less than 90 days after providing notice to these local agencies, the ~~agency~~ *office* may sell any remaining firefighting apparatus and equipment to public agencies outside of California, the federal government, and Indian tribes, subject to any applicable federal requirements.

(b) If a contract for the sale of new or used firefighting apparatus and equipment under subdivision (a) provides for the local agency to pay the sale price in more than one installment, the local agency shall pay interest at a rate specified in the contract, which shall not exceed 1 percent less than the rate earned by the Pooled Money Investment Board, and the term of a contract shall not exceed five years.

(c) If a contract for the sale of new or used firefighting apparatus and equipment under subdivision (a) provides for a local agency to obtain a loan from another source, the ~~agency~~ *office* may insure the other loan.

SEC. 171. Section 8589.14 of the Government Code is amended to read:

8589.14. The ~~agency~~ *office* shall operate an information system which is capable of identifying firefighting apparatus and equipment which is available for acquisition, and local agencies which are interested in acquiring apparatus and equipment.

SEC. 172. Section 8589.15 of the Government Code is amended to read:

8589.15. The ~~agency~~ *office* may contract with the Prison Industry Authority to perform any of the responsibilities or services required or authorized by this article.

SEC. 173. Section 8589.16 of the Government Code is amended to read:

8589.16. There is hereby created in the General Fund the State Assistance for Fire Equipment Account, which, notwithstanding Section 13340, is continuously appropriated to the ~~agency~~ *office* for the purposes of Sections 8589.11 and 8589.13. All proceeds from the resale of firefighting apparatus and equipment shall be paid to the account.

SEC. 174. Section 8589.17 of the Government Code is amended to read:

8589.17. Every contract with a local agency for the resale of firefighting apparatus and equipment shall specify that the local agency shall make the apparatus or equipment available to other local agencies in the same county as part of a mutual aid agreement. The apparatus or equipment shall be available for mutual aid responses for the length of the term of the contract with the ~~agency~~ *office*.

SEC. 175. Section 8589.18 of the Government Code is amended to read:

8589.18. If a local agency defaults on a contract for the resale of firefighting apparatus and equipment, the ~~agency~~ *office* may either renegotiate the contract or take possession of the apparatus or equipment for subsequent resale to another local agency.

SEC. 176. Section 8589.19 of the Government Code is amended to read:

8589.19. (a) After consultation with the California Emergency Management Agency Fire Advisory Committee, *hereafter to be referred as the Office of Emergency Services Fire Advisory Committee,* the ~~secretary~~ *director* shall adopt rules and regulations governing the operation of the programs created by this article pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) The rules and regulations adopted pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) The specific types of firefighting apparatus and equipment which may be acquired, rehabilitated, and resold.

(2) The amount and terms of resale contracts.

(3) The time, format, and manner in which local agencies may apply for resale contracts.

(4) Priorities for assisting local agencies, which shall give preference to local agencies which meet all of the following:

(A) Demonstrated need for primary response firefighting apparatus and equipment.

(B) Will be adequately able to operate and maintain the firefighting apparatus and equipment.

(C) Have already used other means of financing the firefighting apparatus and equipment.

SEC. 177. Section 8589.20 of the Government Code is amended to read:

8589.20. All state agencies, boards, and commissions shall cooperate with the ~~agency~~ *office* in implementing the programs created by this article.

SEC. 178. Section 8589.21 of the Government Code is amended to read:

8589.21. The ~~secretary~~ *director* shall be responsible for the programs created by this article which, except as provided by Sections 8589.12 and 8589.15, shall not be subject to the requirements of the State Equipment Council or the Office of Fleet Administration of the Department of General Services.

SEC. 179. Section 8590.1 of the Government Code is amended to read:

8590.1. As used in this article, the following terms have the following meanings:

(a) "Agency" *or "office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ Services.

(b) "Local agency" means any city, county, city and county, fire district, special district, or joint powers agency that provides fire suppression services. "Local agency" also includes a fire company organized pursuant to Part 4 (commencing with Section 14825) of Division 12 of the Health and Safety Code.

(c) "Secretary" *or "director"* means the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

(d) "State agency" means any state agency providing residential or institutional fire protection, including, but not limited to, the Department of Forestry and Fire Protection.

SEC. 180. Section 8590.2 of the Government Code is amended to read:

8590.2. There is established in the ~~agency~~ *office* a thermal imaging equipment purchasing program under which the ~~agency~~

office shall acquire firefighting thermal imaging equipment on behalf of local and state agencies that are interested in obtaining this equipment.

SEC. 181. Section 8590.3 of the Government Code is amended to read:

8590.3. In administering the purchasing program, the ~~secretary~~ *director* shall do all of the following:

(a) No later than 45 days after the effective date of this article, establish an advisory committee, which shall be comprised of representatives of organizations including, but not limited to, the California Fire Chiefs Association, the Fire Districts Association of California, the California Professional Firefighters, the CDF Firefighters, and the California State Firefighters Association, Inc. The committee shall meet no later than 30 days after all members are appointed.

(b) Consult with the advisory committee regarding equipment specifications and other matters relating to the acquisition of thermal imaging equipment, and require the advisory committee to formulate specifications no later than 120 days after its initial meeting.

(c) Notify all local and state agencies about the purchasing program, including the opportunity to purchase additional units at the contract price, and determine whether those agencies are interested in obtaining thermal imaging equipment.

(d) Purchase thermal imaging equipment at the lowest possible price from a reliable vendor that meets specified requirements. It is the intent of the Legislature that the director enter into a multiyear contract for this purpose no later than 180 days after the committee formulates specifications pursuant to subdivision (b).

(e) Include a provision in the vendor contract allowing any local or state agency to purchase additional units directly from the vendor at the contract price.

(f) Any local agency that elects to participate in the thermal imaging equipment purchasing program shall pay one-half of the contract price for each piece of equipment purchased on its behalf by the state.

SEC. 182. Section 8590.4 of the Government Code is amended to read:

8590.4. (a) The ~~secretary~~ *director* shall seek funding for the program from the private sector, grant programs, and other appropriate sources.

(b) The ~~secretary,~~ *director,* after consultation with the advisory commission, shall distribute equipment purchased under the program in order to maximize its utilization by firefighters based on consideration of the following factors:

(1) Ability to share or move the equipment to fire locations.

(2) Availability of existing thermal imaging equipment.

(3) Geography.

(4) Need based on frequency of fires.

SEC. 183. Section 8591 of the Government Code is amended to read:

8591. Nothing in this chapter shall operate to prevent the Governor or *the Office of* Emergency ~~Management~~ *Services* from formally recognizing committees or boards established by or with segments of the private sector, public agencies, or both the private sector and public agencies, that control facilities, resources, or the provision of services essential to the mitigation of the effects of an emergency or recovery therefrom, or from assigning administrative authority or responsibility to those committees or boards or to members thereof with respect to the provision and effective utilization of those resources to meet needs resulting from an emergency.

SEC. 184. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Backward compatibility" means that the equipment is able to function with older, existing equipment.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, that was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments and between state public safety departments and local or federal entities, and that consists of representatives of the following state entities:

(1) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services,* ~~who~~ *whose director or his or her representative* shall serve as chairperson.

(2) The Department of the California Highway Patrol.
(3) The Department of Transportation.
(4) The Department of Corrections and Rehabilitation.
(5) The Department of Parks and Recreation.
(6) The Department of Fish and Game.
(7) The Department of Forestry and Fire Protection.
(8) The Department of Justice.
(9) The Department of Water Resources.
(10) The State Department of Public Health.
(11) The Emergency Medical Services Authority.
(12) The ~~California~~ *Department of* Technology ~~Agency~~.
(13) The Military Department.
(14) The Department of Finance.

(c) "First response agencies" means public agencies that, in the early stages of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs' departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) "Nonproprietary equipment or systems" means equipment or systems that are able to function with another manufacturer's equipment or system regardless of type or design.

(e) "Open architecture" means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) "Public safety radio subscriber" means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 185. Section 8592.5 of the Government Code is amended to read:

8592.5. (a) Except as provided in subdivision (c), a state department that purchases public safety radio communication equipment shall ensure that the equipment purchased complies with applicable provisions of the following:

(1) The common system standards for digital public safety radio communications commonly referred to as the "Project 25 Standard," as that standard may be amended, revised, or added to in the future jointly by the Association of Public-Safety Communications Officials, Inc., National Association of State Telecommunications Directors, and agencies of the federal government, commonly referred to as "APCO/NASTD/FED."

(2) The operational and functional requirements delineated in the Statement of Requirements for Public Safety Wireless Communications and Interoperability developed by the SAFECOM Program under the United States Department of Homeland Security.

(b) Except as provided in subdivision (c), a local first response agency that purchases public safety radio communication equipment, in whole or in part, with state funds or federal funds administered by the state, shall ensure that the equipment purchased complies with paragraphs (1) and (2) of subdivision (a).

(c) Subdivision (a) or (b) shall not apply to either of the following:

(1) Purchases of equipment to operate with existing state or local communications systems where the latest applicable standard will not be compatible, as verified by the ~~California~~ *Department of* Technology ~~Agency~~.

(2) Purchases of equipment for existing statewide low-band public safety communications systems.

(d) This section may not be construed to require an affected state or local governmental agency to compromise its immediate mission or ability to function and carry out its existing responsibilities.

SEC. 186. Section 8592.7 of the Government Code is amended to read:

8592.7. (a) A budget proposal submitted by a state agency for support of a new or modified radio system shall be accompanied by a technical project plan that includes all of the following:

(1) The scope of the project.

(2) Alternatives considered.

(3) Justification for the proposed solution.
(4) A project implementation plan.
(5) A proposed timeline.
(6) Estimated costs by fiscal year.

(b) The committee shall review the plans submitted pursuant to subdivision (a) for consistency with the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

(c) The ~~California~~ *Department of* Technology ~~Agency~~ shall review the plans submitted pursuant to subdivision (a) for consistency with the technical requirements of the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

SEC. 187. Section 8593 of the Government Code is amended to read:

8593. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall work with advocacy groups representing the deaf and hearing impaired, including, but not limited to, the California Association of the Deaf and the Coalition of Deaf Access Providers, California television broadcasters, city and county emergency services coordinators, and, as appropriate, the Federal Emergency Management Agency and the Federal Communications Commission, to improve communication with deaf and hearing-impaired persons during emergencies, including the use of open captioning by California television broadcasters when transmitting emergency information.

SEC. 188. Section 8593.1 of the Government Code is amended to read:

8593.1. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall investigate the feasibility of, and the funding requirements for, establishing a "Digital Emergency Broadcast System" network, to be used by local and state government agencies for the provision of warnings and instructions in digital or printed form to California broadcast outlets for relay to the public both orally and visually, through television, and orally, through radio, during emergencies.

SEC. 189. Section 8593.2 of the Government Code is amended to read:

8593.2. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall investigate the feasibility of establishing a

toll-free 800 telephone hotline, including TDD (telecommunications device for the deaf) accessibility, which would be accessible to the public, including deaf, hearing-impaired, and non-English speaking persons, for use during nonemergency and emergency periods to respond to inquiries about emergency preparedness and disaster status.

SEC. 190. Section 8593.6 of the Government Code is amended to read:

8593.6. (a) No later than six months after securing funding for the purposes of this section, the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services* shall convene a working group for the purpose of assessing existing and future technologies available in the public and private sectors for the expansion of transmission of emergency alerts to the public through a public-private partnership. The working group shall advise the secretary and assist in the development of policies, procedures, and protocols that will lay the framework for an improved warning system for the public.

(b) (1) The working group shall consist of the following membership, to be appointed by the ~~secretary~~ *director*:

(A) A representative of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(B) A representative of the Attorney General's office.

(C) A representative of the State Department of Public Health.

(D) A representative of the State Emergency Communications Committee.

(E) A representative of the Los Angeles County Office of Emergency Management, at the option of that agency.

(F) A representative or representatives of local government, at the option of the local government or governments.

(G) Representatives of the private sector who possess technology, experience, or insight that will aid in the development of a public-private partnership to expand an alert system to the public, including, but not limited to, representatives of providers of mass communication systems, first responders, and broadcasters.

(H) Additional representatives of any public or private entity as deemed appropriate by the ~~Secretary of Emergency Management~~ *director*.

(2) In performing its duties, the working group shall consult with the Federal Communications Commission, and with respect

to grants and fiscal matters, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(c) The working group shall consider and make recommendations with respect to all of the following:

(1) Private and public programs, including pilot projects that attempt to integrate a public-private partnership to expand an alert system.

(2) Protocols, including formats, source or originator identification, threat severity, hazard description, and response requirements or recommendations, for alerts to be transmitted via an alert system that ensures that alerts are capable of being utilized across the broadest variety of communication technologies, at state and local levels.

(3) Protocols and guidelines to prioritize assurance of the greatest level of interoperability for first responders and families of first responders.

(4) Procedures for verifying, initiating, modifying, and canceling alerts transmitted via an alert system.

(5) Guidelines for the technical capabilities of an alert system.

(6) Guidelines for technical capability that provides for the priority transmission of alerts.

(7) Guidelines for other capabilities of an alert system.

(8) Standards for equipment and technologies used by an alert system.

(9) Cost estimates.

(10) Standards and protocols in accordance with, or in anticipation of, Federal Communications Commission requirements and federal statutes or regulations.

(11) Liability issues.

(d) The ~~secretary~~ *director* may accept private monetary or in-kind donations for the purposes of this section.

SEC. 191. Section 8596 of the Government Code is amended to read:

8596. (a) Each department, division, bureau, board, commission, officer, and employee of this state shall render all possible assistance to the Governor and to the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services* in carrying out ~~the provisions of~~ this chapter.

(b) In providing that assistance, state agencies shall cooperate to the fullest possible extent with each other and with political

subdivisions, relief agencies, and the American National Red Cross, but nothing contained in this chapter shall be construed to limit or in any way affect the responsibilities of the American National Red Cross under the federal act approved January 5, 1905 (33 Stat. 599), as amended.

(c) Entities providing disaster-related services and assistance shall strive to ensure that all victims receive the assistance that they need and for which they are eligible. Public employees shall assist evacuees and other individuals in securing disaster-related assistance and services without eliciting any information or document that is not strictly necessary to determine eligibility under state and federal laws. Nothing in this subdivision shall prevent public employees from taking reasonable steps to protect the health or safety of evacuees and other individuals during an emergency.

(d) State personnel, equipment, and facilities may be used to clear and dispose of debris on private property only after the Governor finds: (1) that the use is for a state purpose; (2) that the use is in the public interest, serving the general welfare of the state; and (3) that the personnel, equipment, and facilities are already in the emergency area.

SEC. 192. Section 8599 of the Government Code is amended to read:

8599. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. The ~~agency~~ *office* shall consult with appropriate state and local governmental agencies and volunteer organizations in the development of this plan.

SEC. 193. Section 8600 of the Government Code is amended to read:

8600. The Governor with the advice of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* is hereby authorized and empowered to divide the state into mutual aid regions for the more effective application, administration, and coordination of mutual aid and other emergency-related activities.

SEC. 194. Section 8607 of the Government Code is amended to read:

8607. (a) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, in coordination with all interested state agencies

with designated response roles in the state emergency plan and interested local emergency management agencies shall jointly establish by regulation a standardized emergency management system for use by all emergency response agencies. The public water systems identified in Section 8607.2 may review and comment on these regulations prior to adoption. This system shall be applicable, but not limited to, those emergencies or disasters referenced in the state emergency plan. The standardized emergency management system shall include all of the following systems as a framework for responding to and managing emergencies and disasters involving multiple jurisdictions or multiple agency responses:

(1) The Incident Command Systems adapted from the systems originally developed by the FIRESCOPE Program, including those currently in use by state agencies.

(2) The multiagency coordination system as developed by the FIRESCOPE Program.

(3) The mutual aid agreement, as defined in Section 8561, and related mutual aid systems such as those used in law enforcement, fire service, and coroners operations.

(4) The operational area concept, as defined in Section 8559.

(b) Individual agencies' roles and responsibilities agreed upon and contained in existing laws or the state emergency plan are not superseded by this article.

(c) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, in coordination with the State Fire Marshal's office, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, the Emergency Medical Services Authority, and all other interested state agencies with designated response roles in the state emergency plan, shall jointly develop an approved course of instruction for use in training all emergency response personnel, consisting of the concepts and procedures associated with the standardized emergency management system described in subdivision (a).

(d) All state agencies shall use the standardized emergency management system as adopted pursuant to subdivision (a), to coordinate multiple jurisdiction or multiple agency emergency and disaster operations.

(e) (1) Each local agency, in order to be eligible for any funding of response-related costs under disaster assistance programs, shall

use the standardized emergency management system as adopted pursuant to subdivision (a) to coordinate multiple jurisdiction or multiple agency operations.

(2) Notwithstanding paragraph (1), local agencies shall be eligible for repair, renovation, or any other nonpersonnel costs resulting from an emergency.

(f) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall, in cooperation with involved state and local agencies, complete an after-action report within 120 days after each declared disaster. This report shall review public safety response and disaster recovery activities and shall be made available to all interested public safety and emergency management organizations.

SEC. 195. Section 8607.2 of the Government Code is amended to read:

8607.2. (a) All public water systems, as defined in subdivision (f) of Section 116275 of the Health and Safety Code, with 10,000 or more service connections shall review and revise their disaster preparedness plans in conjunction with related agencies, including, but not limited to, local fire departments and the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to ensure that the plans are sufficient to address possible disaster scenarios. These plans should examine and review pumping station and distribution facility operations during an emergency, water pressure at both pumping stations and hydrants, and whether there is sufficient water reserve levels and alternative emergency power, including, but not limited to, onsite backup generators and portable generators.

(b) All public water systems, as defined in subdivision (f) of Section 116275 of the Health and Safety Code, with 10,000 or more service connections following a declared state of emergency shall furnish an assessment of their emergency response and recommendations to the Legislature within six months after each disaster, as well as implementing the recommendations in a timely manner.

(c) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall establish appropriate and insofar as practical, emergency response and recovery plans, including mutual aid plans, in coordination with public water systems, as defined in subdivision (f) of Section 116275 of the Health and Safety Code, with 10,000 or more service connections.

SEC. 196. Section 8608 of the Government Code is amended to read:

8608. The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall approve and adopt, and incorporate the California Animal Response Emergency System (CARES) program developed under the oversight of the Department of Food and Agriculture into the standardized emergency management system established pursuant to subdivision (a) of Section 8607.

SEC. 197. Section 8610 of the Government Code is amended to read:

8610. Counties, cities and counties, and cities may create disaster councils by ordinance. A disaster council shall develop plans for meeting any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency; those plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private. The disaster council shall supply a copy of any plans developed pursuant to this section to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*. The governing body of a county, city and county, or city may, in the ordinance or by resolution adopted pursuant to the ordinance, provide for the organization, powers and duties, divisions, services, and staff of the emergency organization. The governing body of a county, city and county, or city may, by ordinance or resolution, authorize public officers, employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties during a state of war emergency, a state of emergency, or a local emergency.

Counties, cities and counties, and cities may enact ordinances and resolutions and either establish rules and regulations or authorize disaster councils to recommend to the director of the local emergency organization rules and regulations for dealing with local emergencies that can be adequately dealt with locally; and further may act to carry out mutual aid on a voluntary basis and, to this end, may enter into agreements.

SEC. 198. Section 8610.3 of the Government Code is amended to read:

8610.3. The Legislature hereby finds and declares as follows:

(a) The ~~California Emergency Management Agency~~ *Office of Emergency Services*, in consultation with the State Department of Health Services and affected counties, investigated the consequences of a serious nuclear powerplant accident for each of the nuclear powerplants in California with a generating capacity of 50 megawatts or more.

(b) This study culminated in the establishment of emergency planning zones for nuclear powerplant emergency preparedness.

(c) All state and local government nuclear powerplant emergency response plans have been revised to reflect the information provided in the study.

SEC. 199. Section 8610.5 of the Government Code is amended to read:

8610.5. (a) For purposes of this section, the following definitions shall apply:

(1) "Agency" *or "office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(2) "Previous fiscal year" means the fiscal year immediately prior to the current fiscal year.

(3) "Utility" means an "electrical corporation" as defined in Section 218 of the Public Utilities Code, and "utilities" means more than one electrical corporation.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the ~~agency~~ *office* an equitable method of assessing the utilities operating the powerplants for their reasonable pro rata share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the ~~agency~~ *office*.

(4) Upon each utility's notification by the ~~agency~~ *office*, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation

by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification thereof by the ~~agency~~ *office*.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the agency pursuant to paragraph (4). The ~~agency~~ *office* shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from the utilities operating the nuclear powerplants within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, subject to subdivisions (e) and (f), to be shared equally among the utilities.

(2) Of the annual amount of two million forty-seven thousand dollars ($2,047,000) for the 2009–10 fiscal year, the sum of one million ninety-four thousand dollars ($1,094,000) shall be for support of the ~~agency~~ *office* for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of nine hundred fifty-three thousand dollars ($953,000) shall be for support of the State Department of Public Health for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 2009, of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum annual amount available for disbursement for local

costs, subject to subdivisions (e) and (f), shall, for the fiscal year beginning July 1, 2009, be one million seven hundred thirty-two thousand dollars ($1,732,000) for the Diablo Canyon site and one million six hundred thousand dollars ($1,600,000) for the San Onofre site.

(2) The amounts paid by the utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) (1) Except as provided in paragraph (2), the amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the percentage increase in the California Consumer Price Index of the previous fiscal year.

(2) For the Diablo Canyon site, the amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the larger of the percentage change in the prevailing wage for San Luis Obispo County employees, not to exceed 5 percent, or the percentage increase in the California Consumer Price Index from the previous fiscal year.

(f) Through the inoperative date specified in subdivision (g), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year shall be carried over for one year. The funds carried over from the previous year may be expended when the current year's funding cap is exceeded.

(g) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

(h) Upon inoperation of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto, to be credited to the utility's ratepayers.

SEC. 200. Section 8612 of the Government Code is amended to read:

8612. Any disaster council that both agrees to follow the rules and regulations established by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* pursuant to Section 8585.5 and substantially complies with those rules and regulations shall be

certified by the ~~agency~~ *office*. Upon that certification, and not before, the disaster council becomes an accredited disaster council.

SEC. 201. Section 8613 of the Government Code is amended to read:

8613. Should an accredited disaster council fail to comply with the rules and regulations of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* in any material degree, the ~~agency~~ *office* may revoke its certification and, upon the act of revocation, the disaster council shall lose its accredited status. It may again become an accredited disaster council in the same manner as is provided for a disaster council that has not previously been accredited.

SEC. 202. Section 8614 of the Government Code is amended to read:

8614. (a) Each department, division, bureau, board, commission, officer, and employee of each political subdivision of the state shall render all possible assistance to the Governor and to the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services* in carrying out ~~the provisions of~~ this chapter.

(b) The emergency power that may be vested in a local public official during a state of war emergency or a state of emergency shall be subject or subordinate to the powers vested in the Governor under this chapter when exercised by the Governor.

(c) Ordinances, orders, and regulations of a political subdivision shall continue in effect during a state of war emergency or a state of emergency, except as to any provision suspended or superseded by an order or regulation issued by the Governor.

SEC. 203. Section 8639 of the Government Code is amended to read:

8639. The qualifications of each standby officer should be carefully investigated, and the governing body may request the ~~Secretary of Emergency Management~~ *Director of Emergency Services* to aid in the investigation of any prospective appointee. No examination or investigation shall be made without the consent of the prospective appointee.

Consideration shall be given to places of residence and work, so that for each office for which standby officers are appointed there shall be the greatest probability of survivorship. Standby officers may be residents or officers of a political subdivision other than that to which they are appointed as standby officers.

SEC. 204. Section 8649 of the Government Code is amended to read:

8649. Subject to the approval of the Department of Finance, any state agency may use its personnel, property, equipment, and appropriations for carrying out the purposes of this chapter, and in that connection may loan personnel to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*. The Department of Finance shall determine whether reimbursement shall be made to any state agency for expenditures heretofore or hereafter made or incurred for those purposes from any appropriation available for the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services,* except that as to any expenditure made or incurred by any state agency the funds of which are subject to constitutional restriction that would prohibit their use for those purposes, that reimbursement shall be provided and the original expenditure shall be considered a temporary loan to the General Fund.

SEC. 205. Section 8651 of the Government Code is amended to read:

8651. The ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services* may procure from the federal government or any of its agencies such surplus equipment, apparatus, supplies, and storage facilities therefor as may be necessary to accomplish the purposes of this chapter.

SEC. 206. Section 8657 of the Government Code is amended to read:

8657. (a) Volunteers duly enrolled or registered with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* or any disaster council of any political subdivision, or unregistered persons duly impressed into service during a state of war emergency, a state of emergency, or a local emergency, in carrying out, complying with, or attempting to comply with, any order or regulation issued or promulgated pursuant to the provisions of this chapter or any local ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work for their respective entities.

(b) No political subdivision or other public agency under any circumstances, nor the officers, employees, agents, or duly enrolled

or registered volunteers thereof, or unregistered persons duly impressed into service during a state of war emergency, a state of emergency, or a local emergency, acting within the scope of their official duties under this chapter or any local ordinance shall be liable for personal injury or property damage sustained by any duly enrolled or registered volunteer engaged in or training for emergency preparedness or relief activity, or by any unregistered person duly impressed into service during a state of war emergency, a state of emergency, or a local emergency and engaged in such service. The foregoing shall not affect the right of any such person to receive benefits or compensation which may be specifically provided by the provisions of any federal or state statute nor shall it affect the right of any person to recover under the terms of any policy of insurance.

(c) The California Earthquake Prediction Evaluation Council, an advisory committee established pursuant to Section 8590 of this chapter, may advise the Governor of the existence of an earthquake or volcanic prediction having scientific validity. In its review, hearings, deliberations, or other validation procedures, members of the council, jointly and severally, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions engaged in similar work in their respective entities. Any person making a presentation to the council as part of the council's validation process, including presentation of a prediction for validation, shall be deemed a member of the council until the council has found the prediction to have or not have scientific validity.

SEC. 207. Section 8657.5 of the Government Code is amended to read:

8657.5. (a) (1) A private business included on the statewide registry pursuant to Section 8588.2 that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during a declared state of war, state of emergency, or state of local emergency shall not be civilly liable for a death, injury, illness, or other damage to a person or property caused by the private business's donation of services, goods, labor, equipment, resources, or dispensaries or other facilities.

(2) A private business included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during an emergency medical services training program conducted by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and a city, a county, or a city and county shall not be civilly liable for damages alleged to have resulted from those training programs, as described in Section 1799.100 of the Health and Safety Code.

(b) (1) A nonprofit organization included on the statewide registry pursuant to Section 8588.2 that voluntarily and without expectation and receipt of compensation from victims of emergencies and disasters donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during a declared state of war, state of emergency, or state of local emergency shall not be civilly liable for a death, injury, illness, or other damage to a person or property caused by the nonprofit organization's donation of services, goods, labor, equipment, resources, or dispensaries or other facilities.

(2) A nonprofit organization included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during an emergency medical services training program conducted by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and a city, a county, or a city and county, shall not be civilly liable for damages alleged to have resulted from those training programs, as described in Section 1799.100 of the Health and Safety Code.

(c) A private business or nonprofit organization that discriminates against a victim of an emergency or disaster based on a protected classification under federal or state law shall not be entitled to the protections in subdivision (a) or (b).

(d) This section shall not relieve a private business or nonprofit organization from liability caused by its grossly negligent act or omission, or willful or wanton misconduct.

SEC. 208. Section 8670.20 of the Government Code is amended to read:

8670.20. (a) For the purposes of this section, "vessel" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(b) Any party responsible for a vessel shall notify the Coast Guard within one hour of a disability if the disabled vessel is within 12 miles of the shore of this state. The administrator and the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall request the Coast Guard to notify the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* as soon as possible after the Coast Guard receives notice of a disabled vessel within 12 miles of the shore of this state. The administrator shall attempt to negotiate an agreement with the Coast Guard governing procedures for Coast Guard notification to the state regarding disabled vessels.

(c) Whenever the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* receives notice of a disabled vessel, the office shall immediately notify the administrator. If the administrator receives notice from any other source regarding the presence of a disabled vessel within 12 miles of the shore of this state, the administrator shall immediately notify the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(d) For the purposes of this section, a vessel shall be considered disabled if any of the following occurs:

(1) Any accidental or intentional grounding that creates a hazard to the environment or the safety of the vessel.

(2) Loss of main propulsion or primary steering or any component or control system that causes a reduction in the maneuvering capabilities of the vessel. For the purposes of this paragraph, "loss" means that any system, component, part, subsystem, or control system does not perform the specified or required function.

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service, including, but not limited to, fire, flooding, or collision with another vessel.

(4) Any occurrence not meeting the above criteria, but that creates the serious possibility of an oil spill or an occurrence that may result in an oil spill.

(e) For the purposes of this section, a tank barge shall be considered disabled if any of the following occur:

(1) The towing mechanism becomes disabled.

(2) The tugboat towing the tank barge becomes disabled through occurrences specified in subdivision (d).

SEC. 209. Section 8670.25.5 of the Government Code is amended to read:

8670.25.5. (a) (1) Without regard to intent or negligence, any party responsible for the discharge or threatened discharge of oil in marine waters shall report the discharge immediately to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* pursuant to Section 25507 of the Health and Safety Code.

(2) If the information initially reported pursuant to paragraph (1) was inaccurate or incomplete, or if the quantity of oil discharged has changed, any party responsible for the discharge or threatened discharge of oil in marine waters shall report the updated information immediately to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* pursuant to paragraph (1). The report shall contain the accurate or complete information, or the revised quantity of oil discharged.

(b) Immediately upon receiving notification pursuant to subdivision (a), the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall notify the administrator, the State Lands Commission, the California Coastal Commission, the California regional water quality control board having jurisdiction over the location of the discharged oil, and the appropriate local governmental agencies in the area surrounding the discharged oil, and take the actions required by subdivision (d) of Section 8589.7. If the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall notify that commission. Each public agency specified in this subdivision shall adopt an internal protocol over communications regarding the discharge of oil and file the internal protocol with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(c) The 24-hour emergency telephone number of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall be posted at every terminal, at the area of control of every marine facility, and on the bridge of every tankship in marine waters.

(d) This section does not apply to discharges, or potential discharges, of less than one barrel (42 gallons) of oil unless a more restrictive reporting standard is adopted in the California oil spill contingency plan prepared pursuant to Section 8574.1.

(e) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

SEC. 210. Section 8670.26 of the Government Code is amended to read:

8670.26. Any local or state agency responding to a spill of oil shall notify the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, if notification as required under Section 8670.25.5, Section 13272 of the Water Code, or any other notification procedure adopted in the California oil spill contingency plan has not occurred.

SEC. 211. Section 8670.64 of the Government Code is amended to read:

8670.64. (a) A person who commits any of the following acts, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code:

(1) Except as provided in Section 8670.27, knowingly fails to follow the direction or orders of the administrator in connection with an oil spill.

(2) Knowingly fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil which enters marine waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Knowingly engages in or causes the discharge or spill of oil into marine waters, or a person who reasonably should have known that he or she was engaging in or causing the discharge or spill of oil into marine waters, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.

(4) Knowingly fails to begin cleanup, abatement, or removal of spilled oil as required in Section 8670.25.

(b) The court shall also impose upon a person convicted of violating subdivision (a), a fine of not less than five thousand dollars ($5,000) or more than five hundred thousand dollars ($500,000) for each violation. For purposes of this subdivision,

each day or partial day that a violation occurs is a separate violation.

(c) (1) A person who knowingly does any of the acts specified in paragraph (2) shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars ($2,500) or more than two hundred fifty thousand dollars ($250,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than five hundred thousand dollars ($500,000), or by both that fine and imprisonment:

(2) The acts subject to this subdivision are all of the following:

(A) Failing to notify the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* in violation of Section 8670.25.5.

(B) Knowingly making a false or misleading marine oil spill report to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(C) Continuing operations for which an oil spill contingency plan is required without an oil spill contingency plan approved pursuant to Article 5 (commencing with Section 8670.28).

(D) Except as provided in Section 8670.27, knowingly failing to follow the material provisions of an applicable oil spill contingency plan.

SEC. 212. Section 8680.7 of the Government Code is amended to read:

8680.7. ~~"Secretary"~~ *"Director"* means the ~~Secretary~~ *Director* of Emergency ~~Management~~ *Services*.

SEC. 213. Section 8682 of the Government Code is amended to read:

8682. The ~~secretary~~ *director* shall administer this chapter. The ~~secretary~~ *director* may delegate any power or duty vested in him or her under this chapter to a state agency or to any other officer or employee of the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

SEC. 214. Section 8682.2 of the Government Code is amended to read:

8682.2. To the extent that funds are allocated therefor, a state agency, when requested by the ~~secretary~~ *director*, shall render services and perform duties within its area of responsibility when considered necessary to carry out the purposes of this chapter.

SEC. 215. Section 8682.6 of the Government Code is amended to read:

8682.6. The project proposal executed between a local agency and the ~~secretary~~ *director* pursuant to Section 8685.6 shall contain a provision under which the local agency agrees to hold the state harmless from damages due to the work for which funds are allocated.

SEC. 216. Section 8682.8 of the Government Code is amended to read:

8682.8. When certified by the ~~secretary~~ *director*, claims of local agencies for payment shall be presented to the Controller for payment out of funds made available therefor. The ~~secretary~~ *director* may request the Controller to audit any claim to ensure that funds were expended in accordance with the requirements and purposes of this chapter.

SEC. 217. Section 8682.9 of the Government Code is amended to read:

8682.9. The ~~secretary~~ *director* shall adopt regulations, as necessary, to govern the administration of the disaster assistance program authorized by this chapter in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3). These regulations shall include specific project eligibility requirements, a procedure for local governments to request the implementation of programs under this chapter, and a method for evaluating these requests by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

SEC. 218. Section 8685 of the Government Code is amended to read:

8685. From any moneys appropriated for that purpose, and subject to the conditions specified in this article, the ~~secretary~~ *director* shall allocate funds to meet the cost of any one or more projects as defined in Section 8680.4. Applications by school districts shall be submitted to the Superintendent of Public Instruction for review and approval, in accordance with instructions or regulations developed by the ~~California~~ *Office of* Emergency

~~Management Agency~~ *Services*, prior to the allocation of funds by the ~~secretary~~ *director*.

Moneys appropriated for the purposes of this chapter may be used to provide financial assistance for the following local agency and state costs:

(a) Local agency personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, excluding the normal hourly wage costs of employees engaged in emergency work activities.

(b) To repair, restore, reconstruct, or replace facilities belonging to local agencies damaged as a result of disasters as defined in Section 8680.3. Mitigation measures performed pursuant to subdivision (b) of Section 8686.4 shall qualify for funding pursuant to this chapter.

(c) Matching fund assistance for cost sharing required under federal disaster assistance programs, as otherwise eligible under this act.

(d) Indirect administrative costs and any other assistance deemed necessary by the director.

(e) Necessary and required site preparation costs for mobilehomes, travel trailers, and other manufactured housing units provided and operated by the Federal Emergency Management Agency.

SEC. 219. Section 8685.2 of the Government Code is amended to read:

8685.2. An allocation may be made to a local agency for a project when, within 10 days after the actual occurrence of a disaster, the local agency has proclaimed a local emergency and that proclamation is acceptable to the ~~secretary~~ *director* or upon the order of the Governor when a state of emergency proclamation has been issued, and if the Legislature has appropriated money for allocation for purposes of this chapter.

SEC. 220. Section 8685.4 of the Government Code is amended to read:

8685.4. A local agency shall make application to the ~~secretary~~ *director* for state financial assistance within 60 days after the date of the proclamation of a local emergency. The ~~secretary~~ *director* may extend the time for this filing only under unusual circumstances. No financial aid shall be provided until a state

agency, upon the request of the ~~secretary~~ *director*, has first investigated and reported upon the proposed work, has estimated the cost of the work, and has filed its report with the ~~secretary~~ *director* within 60 days from the date the local agency made application, unless the ~~secretary~~ *director* extends the time because of unusual circumstances. The estimate of cost of the work may include expenditures made by the local agency for the work prior to the making of the estimate. If the reporting state agency fails to report its findings within the 60-day period, and time is not extended by the ~~secretary~~ *director*, the ~~secretary~~ *director* may complete the investigation and recover a proportionate amount allocated to the state agency for the balance of the investigation. "Unusual circumstances," as used above, are unavoidable delays that result from recurrence of a disaster, prolonged severe weather within a one-year period, or other conditions beyond the control of the applicant. Delays resulting from administrative procedures are not unusual circumstances which warrant extensions of time.

SEC. 221. Section 8685.6 of the Government Code is amended to read:

8685.6. No money shall be allocated for a project until the local agency has indicated in writing its acceptance of the project proposal and the cost-sharing related thereto in such form as the ~~secretary~~ *director* prescribes. The project proposal shall provide for the performance of the work by the local agency, or by the state agency in whose area of responsibility such work falls, if the local agency and such state agency determine that the work should be performed by the state agency. The project proposal shall also provide for the methods of handling the funds allocated and the matching funds provided by the local agency. It shall also contain such other provisions as are deemed necessary to assure completion of the work included in the project and the proper expenditure of funds as provided herein.

SEC. 222. Section 8685.8 of the Government Code is amended to read:

8685.8. Under procedures to be prescribed by the ~~secretary~~ *director*, a local agency may receive an advance of funds to initiate a project. Such advances shall be limited to not more than 90 percent of the estimated state's share of the project, as determined pursuant to Section 8686.

SEC. 223. Section 8686.2 of the Government Code is amended to read:

8686.2. When the United States or any agency thereof is to provide disaster relief funds for any portion of the cost of a project, the amount so provided shall be deducted from the cost of the project in determining the amount to be allocated by the state and the amount to be contributed by the local agency under Section 8686. It shall not be required that the disaster relief funds to be provided from federal sources shall be paid into the State Treasury, but the secretary shall, if state funds are available, authorize the work to be commenced when the ~~secretary~~ *director* has received assurance, adequate in his or her opinion, that the federal disaster relief matching funds will be made available for expenditure for the work, or for payment to the state for performance thereof.

SEC. 224. Section 8686.3 of the Government Code is amended to read:

8686.3. Local agencies shall undertake to recover maximum federal participation in funding projects. No funds allocated under this chapter shall be used to supplant federal funds otherwise available in the absence of state financial relief. State contributions for such projects as determined by Section 8686 will be reduced by an amount equal to the amount local agencies would have recovered from federal disaster relief sources if they had applied for that funding and had executed the eligible projects in conformity with federal requirements. When a local agency applies for federal disaster relief funds, the ~~secretary~~ *director* shall inform the agency of available state funds.

SEC. 225. Section 8686.4 of the Government Code is amended to read:

8686.4. (a) Whenever the local agency and the ~~secretary~~ *director* determine for projects that the general public and state interest will be better served by replacing a damaged or destroyed facility with a facility that will more adequately serve the present and future public needs than would be accomplished merely by repairing or restoring the damaged or destroyed facility, the ~~secretary~~ *director* shall authorize the replacement, including, in the case of a public building, an increase in the square footage of the building replaced, but the cost of the betterment of the facility, to the extent that it exceeds the cost of repairing or restoring the damaged or destroyed facility, shall be borne and contributed by

the local agency, and the excess cost shall be excluded in determining the amount to be allocated by the state. The state contribution shall not exceed the net cost of restoring each facility on the basis of the design of the facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards.

(b) Notwithstanding subdivision (a), when the ~~secretary~~ *director* determines there are mitigation measures that are cost effective and that substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor, the ~~secretary~~ *director* may authorize the implementation of those measures.

SEC. 226. Section 8686.8 of the Government Code is amended to read:

8686.8. If the ~~secretary~~ *director* determines that a local agency is financially unable to meet the matching requirements set forth in Section 8686, or unable to provide funds for replacement of a facility pursuant to Section 8686.4, the ~~secretary~~ *director* may, if that loan would not result in a violation of Section 18 of Article XVI of the California Constitution and out of any state money made available for purposes of this chapter, lend funds, for the completion of a project or projects. The local agency shall be required by the ~~secretary~~ *director* to make its contribution by means of deferred payments. The deferred payments shall be made in the amounts and at the times provided by the agreement executed in connection with the application, but in any event providing full repayment within 10 years, and shall include a charge to be fixed by the ~~secretary~~ *director* in an amount estimated by him or her to equal the revenue that the state would have derived by investing the total amounts loaned at the interest rate prevailing for legal state investments as of the date of the loan.

SEC. 227. Section 8687 of the Government Code is amended to read:

8687. Deferred payments made by a local agency pursuant to Section 8686.8 shall be made by the agency:

(a) Out of the current revenues of the local agency.

(b) If the current revenues of a city, county, or city and county, prove insufficient to enable the agency to meet the payments, the ~~secretary~~ *director* may order the State Controller to withhold from the local agency funds that the local agency would be entitled from

the state, including, as to street and highway projects as defined by Sections 590 and 592 of the Vehicle Code, from the Motor Vehicle License Fee Fund to the extent necessary to meet the deficiency.

Those sums shall be credited to the funds in the State Treasury from which the loans were made.

SEC. 228. Section 8687.2 of the Government Code is amended to read:

8687.2. Notwithstanding Section 8686, whenever the ~~secretary~~ *director* determines that a local agency to which funds are proposed to be allocated for a public facilities project is financially unable to meet the matching requirements set forth in Section 8686 due to exhaustion of its financial resources because of disaster expenditures, the provisions of Section 8686 may be suspended, and the ~~secretary~~ *director* may allocate funds to pay all of the cost of the project or that portion of the cost which the ~~secretary~~ *director* determines is necessary to accomplish the project, taking into consideration the financial ability of the local agency to meet the matching requirements of Section 8686 and the public benefit of the proposed work, less any money provided by the United States or any agency thereof for any portion of the cost of the project.

SEC. 229. Section 8687.4 of the Government Code is amended to read:

8687.4. Whenever the ~~secretary~~ *director* determines that a local agency which would otherwise be eligible for funds under the formula of Section 8686 is unable to finance a project due to exhaustion of its financial resources because of disaster expenditures, the ~~secretary~~ *director* may allocate funds to pay such portion of the cost of the project as the ~~secretary~~ *director* determines is necessary to accomplish the projects.

SEC. 230. Section 8687.7 of the Government Code is amended to read:

8687.7. (a) As used in this section, the following terms have the following meanings:

(1) "Agency" *or "office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(2) "Community" means a geographic area impacted by an emergency proclaimed by the Governor that includes the jurisdiction of one or more local agencies.

(3) "Community recovery partners" means local, state, and federal agencies, private nonprofit organizations, nongovernmental agencies, faith-based organizations, and other private entities.

(b) The ~~agency~~ *office* may establish a model process that would be made available to assist a community in recovering from an emergency proclaimed by the Governor. The model process may include the following:

(1) The role of the ~~agency~~ *office* in the community recovery process.

(2) Procedures for the ~~agency~~ *office* to have representation onsite as soon as practicable after the Governor proclaims a state of emergency.

(3) The role of the ~~agency~~ *office* to facilitate the use of temporary services, including, but not limited to, direct assistance to individuals, families, and businesses, crisis counseling, disaster unemployment assistance, food and clothing vouchers, communications systems, replacement of personal identification documents, provision of potable water, housing, farm service assistance, tax relief, insurance, and legal services.

(4) The role of the ~~agency~~ *office* to facilitate the establishment of temporary structures, including local assistance centers, showers and bathroom facilities, and temporary administrative offices.

(5) Measures to encourage the participation of nongovernmental organizations in the community recovery process to supplement recovery activities undertaken by federal or local agencies.

(6) The ~~agency~~ *office* may refer the model process to the standardized Emergency Management System (SEMS) Advisory Board, or any other advisory board it deems appropriate, for review and modifications.

(7) It is the intent of the Legislature that the model process assists and complements local procedures. The model process should allow the ~~agency~~ *office* to offer additional assistance when that assistance is needed but not available through local agencies.

SEC. 231. Section 8692 of the Government Code is amended to read:

8692. (a) If a state of emergency is proclaimed, an eligible private nonprofit organization may receive state assistance for distribution of supplies and other disaster or emergency assistance activities resulting in extraordinary cost.

(b) A private nonprofit organization is eligible for assistance under this section if it is eligible for disaster assistance under the *federal* Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Sec. 5121).

(c) An organization is not eligible for assistance under this section if it employs religious content in the provision of emergency assistance.

(d) Any grant of assistance under this section shall comply with Section 4 of Article I and Section 5 of Article XVI of the California Constitution, state and federal civil rights laws, and the First Amendment to the United States Constitution in regard to the funding of religious organizations and activities. These legal constraints include prohibitions on the discrimination against beneficiaries and staff based on protected categories, on the use of public funds for proselytizing of religious doctrine, religious instruction, or worship, and on the use of other religious means to accomplish programmatic goals.

(e) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall adopt regulations to implement this section.

SEC. 232. Section 8696.5 of the Government Code is amended to read:

8696.5. As used in this chapter, the term "disaster" means those conditions specified in subdivisions (b) and (c) of Section 8558 if the estimated damage exceeds three billion dollars ($3,000,000,000) or the Governor orders the ~~Secretary of Emergency Management~~ *Director of Emergency Services* to carry out the provisions of this chapter.

SEC. 233. Section 8697 of the Government Code is amended to read:

8697. (a) Upon the completion of the emergency phase and the immediate recovery phase of a disaster, appropriate state agencies shall take actions to provide continuity of effort conducive to long-range economic recovery.

(b) The ~~Secretary of Emergency Management~~ *Director of Emergency Services* shall invoke the assignments made pursuant to Section 8595, specifying the emergency functions of each agency or department.

(c) The ~~Secretary of Emergency Management~~ *Director of Emergency Services* may make assignments to assist local agencies in implementing Chapter 12.4 (commencing with Section 8877.1).

SEC. 234. Section 8697.5 of the Government Code is amended to read:

8697.5. The ~~Secretary of Emergency Management~~ *Director of Emergency Services*, in executing the purposes of this chapter, shall establish appropriate task forces or emergency teams to include concerned elements of federal, state, and local governments and the private sector.

SEC. 235. Section 8711 of the Government Code is amended to read:

8711. (a) The California-Mexico Border Relations Council is hereby established in state government. The council shall consist of the Secretary of the *Natural* Resources Agency, the Secretary for Environmental Protection, the Secretary of Health and Human Services, the Secretary of ~~Business, Transportation and Housing,~~ *Transportation*, the Secretary of Food and Agriculture, and the Director of Emergency Services.

(b) The Secretary for Environmental Protection shall chair the council.

SEC. 236. Section 8840 of the Government Code is amended to read:

8840. For purposes of this article, "eligible radio station" means a radio station that, at the time of applying for a grant under this article, meets both of the following requirements:

(a) It has met all of the following requirements for a period of two years unless another time is specified:

(1) It is licensed by the Federal Communications Commission as a noncommercial educational station, or is operating under program test authority pending the grant of a license.

(2) It has its community of license and principal administrative offices in this state and is not owned, controlled, managed, or primarily financed by any corporation or entity outside of this state.

(3) It provides a program service that meets the requirements for a Community Service Grant from the Corporation for Public Broadcasting.

(4) It provides significant locally originated programming in its community of license.

(5) It broadcasts not less than 15 hours per day, 365 days per year.

(6) It participates in statewide public broadcasting projects.

(7) It has provided, prior to its application for a grant under this article, an audited financial statement for the years on which the grant is based.

(8) It does either of the following:

(A) Meets the criteria for receipt of a Community Service Grant from the Corporation for Public Broadcasting that were in effect on June 30, 1995.

(B) Two months prior to applying for a grant, the station has a full-time staff of at least one professional paid not less than the California minimum wage, and is certified by the council as providing a needed service to its community of license.

(b) It enters into a permanent agreement with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to dedicate, as necessary, a broadcast channel for the provision of emergency information, to broadcast that information, and to ensure that it is presented in a format that makes it accessible to the deaf, hearing-impaired, and non-English-speaking populations throughout its broadcast area, including rural and isolated populations.

SEC. 237. Section 8841 of the Government Code is amended to read:

8841. For purposes of this article, "eligible television station" means a television station that, at the time of applying for a grant under this article, unless another time is specified, meets all of the following requirements:

(a) It has met all of the following requirements for a period of two years:

(1) It is licensed by the Federal Communications Commission as a noncommercial educational television station, or is operating under program test authority pending the grant of a license.

(2) It has its community of license and principal administrative offices in this state, and is not owned, controlled, managed, or primarily financed by any corporation or entity outside of this state.

(3) It provides a program service that meets the requirements for a Community Service Grant from the Corporation for Public Broadcasting.

(4) It provides substantial and significant locally originated programming in its community of license.

(5) It broadcasts not less than 2,500 hours per year.

(6) It participates in statewide public broadcasting projects.

(7) It meets the criteria for receipt of a Community Service Grant or base grant from the Corporation for Public Broadcasting that were in effect on June 30, 1994.

(8) It has provided, prior to its application for a grant under this article, an audited financial statement for the years on which the grant is based.

(b) It enters into a permanent agreement with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to dedicate, as necessary, a broadcast channel for the provision of emergency information, to broadcast that information, and to ensure that it is presented in a format that makes it accessible to the deaf, hearing-impaired, and non-English-speaking populations throughout its broadcast area, including rural and isolated populations.

(c) At the time of disbursement of the funds, it certifies in writing by the station manager or an officer of the licensee that it has in its public file a plan to address the needs of significant linguistic minorities in its service area.

SEC. 238. Section 8844 of the Government Code is amended to read:

8844. (a) Recognizing the necessity of converting California stations to the technologies of digital broadcasting, the Legislature intends that funds may be appropriated to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* for the purchase of equipment by eligible stations, the installation of that equipment, or purchase of other materials related to that equipment, pursuant to this article.

(b) The ~~agency~~ *office* shall solicit applications for grant funds from eligible stations throughout the state, and shall allocate funds appropriated pursuant to subdivision (a) as follows:

(1) Seventy-five percent of any equipment purchase funds appropriated pursuant to subdivision (a) shall be placed in an equipment grant pool for eligible television stations, and 25 percent shall be placed in an equipment grant pool for eligible radio stations.

(2) Fifty percent of the funds in each grant pool shall be divided equally among the stations in that grant pool.

(3) The remaining 50 percent of the funds in each grant pool shall be divided among stations in that grant pool in proportion to their nonfederal financial support.

(c) (1) Funds provided under this section shall be granted on a matching basis, with each station required to raise from other sources an amount equal to the funds provided to it under this section.

(2) If any funds remain in either grant pool because of the limitations set forth in paragraph (1), the remaining funds shall be returned to the same pool for distribution to other stations that have raised the required matching funds, in amounts proportionate to the nonfederal financial support of those stations.

SEC. 239. Section 8870.4 of the Government Code is amended to read:

8870.4. (a) Except as provided in subdivision (d), the members of the Alfred E. Alquist Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of one hundred dollars ($100) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by Department of Human Resources rules.

(b) The members of the commission who represent the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, the California Building Standards Commission, and the Division of the State Architect shall be employees in good standing of those respective entities. Any per diem and travel expenses of those members of the commission shall be paid by the agencies that they represent on the commission, in compliance with applicable conditions or regulations set by the Department of Human Resources.

SEC. 240. Section 8870.7 of the Government Code is amended to read:

8870.7. The commission is responsible for all of the following in connection with earthquake hazard mitigation:

(a) Setting goals and priorities in the public and private sectors.

(b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.

(c) Scheduling a report on disaster mitigation issues from the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, on the commission agenda as required. For the purposes of this

subdivision, the term disaster refers to all natural hazards which could have an impact on public safety.

(d) Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

(e) Reviewing the recovery and reconstruction efforts after damaging earthquakes.

(f) Gathering, analyzing, and disseminating information.

(g) Encouraging research.

(h) Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

(i) Helping to coordinate the earthquake safety activities of government at all levels.

(j) Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

SEC. 241. Section 8870.71 of the Government Code is amended to read:

8870.71. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake-related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals related to earthquake safety to advise the Governor and the Legislature concerning the proposals and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study that is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) In addition, the commission may perform any of the functions contained in subdivisions (a) to (d), inclusive, in relation to disasters, as defined in subdivision (c) of Section 8870.7, in

connection with issues or items reported or discussed with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* at any commission meeting.

SEC. 242. Section 8871.3 of the Government Code is amended to read:

8871.3. (a) The ~~California Emergency Management Agency~~ *office* shall establish an interim state operations center in southern California to coordinate response to a major earthquake. The ~~agency~~ *office* shall also develop an operational communications plan for the center based upon an inventory of current communications capabilities and an assessment of structural vulnerabilities.

(b) The ~~California Emergency Management Agency~~ *office* shall undertake a design analysis regarding construction of a permanent state operations center in southern California, including an evaluation of telecommunications and information technology systems for emergency management functions.

(c) All appropriations for the purposes of subdivision (a) or (b) shall be reviewed by the Department of Finance prior to obligation of funds.

SEC. 243. Section 8871.4 of the Government Code is amended to read:

8871.4. The commission shall prepare the California Earthquake Hazard Reduction Program, in consultation with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, the Division of Mines and Geology in the Department of Conservation, the Office of the State Architect, the Emergency Medical Services Authority, the University of California and other appropriate institutions of higher learning, the California National Guard, the Department of Finance, other appropriate state and local agencies, the private sector, volunteer groups, and the Legislature.

The commission may hold public hearings or joint hearings with other groups and conduct other activities as necessary for the development of the program.

SEC. 244. Section 8876.7 of the Government Code is amended to read:

8876.7. In carrying out its responsibilities under this chapter, the Seismic Safety Commission, in close consultation with the ~~Business,~~ Transportation ~~and Housing~~ Agency, the ~~California~~

Office of Emergency ~~Management Agency~~ *Services*, and the ~~State and Consumers Services~~ *Business, Consumer Services and Housing* Agency, may do the following:

(a) Monitor the work of the center on behalf of the state.

(b) Produce and deliver for each year that the center is in operation, an independent evaluation of the work conducted at the center as it pertains to the objectives of the center and reducing earthquake losses and earthquake risk in the state recognizing that as a national center it will undertake basic research of national and international consequence as well. The report shall include the following tasks:

(1) Interpret the results of research to indicate how the research may affect state law and policy.

(2) Recommend ways to promote the application of research.

(3) Recommend priorities that would contribute to achieving the center's objectives, provide direct benefits to California residents and businesses, and lead to the completion of specific recommendations in the state's earthquake risk reduction program.

SEC. 245. Section 8878.52 of the Government Code is amended to read:

8878.52. As used in this chapter, the following terms have the following meanings:

(a) "Agency" *or "office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(b) "Committee" means the Earthquake Safety and Public Buildings Rehabilitation Finance Committee created pursuant to subdivision (a) of Section 8878.111.

(c) "Commission" means the Seismic Safety Commission.

(d) "Fund" means the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 created pursuant to Section 8878.55.

(e) "Local government" means any city, county, city and county, or special district.

(f) "Project" means a program of work to retrofit, reconstruct, repair, replace, or relocate, for local government-owned facilities only, a building, facility, or both, which is owned by any city, county, city and county, or special district and which is included in an application for a grant of funds.

(g) "State Architect" means the Office of the State Architect.

(h) "State building or facility" means any building or structure owned by a state agency, which is identified pursuant to Section

8878.60, except for vehicular bridges, roadways, highways, or any facilities or buildings owned by the University of California or the California State University.

(i) "Local government building or facility" means an existing essential services building, as defined in Section 16007 of the Health and Safety Code, or an emergency or public safety local building as identified in Section 8878.99, which is owned by a city, county, city and county, or special district.

(j) State or local government buildings shall not include those owned by private for-profit or private nonprofit corporations, or those owned by any combination, consortium, or joint powers agreement that includes a private nonprofit corporation.

(k) "Retrofit" means to either strengthen the structure of a building or facility, or to provide the means necessary to reduce the seismic force level experienced by a building or facility during an earthquake, so as to significantly reduce hazards to life and safety while concomitantly providing for the substantially safe egress of occupants during and immediately after such an earthquake.

SEC. 246. Section 8878.90 of the Government Code is amended to read:

8878.90. (a) The State Architect, with the consultation of the Seismic Safety Commission and the ~~agency~~ *office*, shall establish criteria for projects potentially eligible for an appropriation from the Legislature, pursuant to subdivision (b) of Section 8878.55 based on factors including the populations at risk of injury and the cost-effectiveness of remedial actions.

(b) The State Architect shall establish the criteria for potential funding pursuant to subdivision (b) of Section 8878.55 based upon the following order of seismic hazard reduction priorities:

(1) Abatement of falling hazards, as defined by the State Architect with the consultation of the Seismic Safety Commission, that are structural or nonstructural components of buildings or facilities and that pose serious threats to life, including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding.

(2) The seismic retrofitting of those buildings or facilities for which partial, localized, or phased seismic retrofits will significantly reduce collapse hazards with minimal disruption to

either the operation of the buildings or facilities or disruption of the occupants of the buildings or facilities.

(3) All other buildings or facilities requiring seismic retrofitting.

SEC. 247. Section 8878.100 of the Government Code is amended to read:

8878.100. Funds shall be distributed by the State Architect in the following manner:

(a) Upon receipt of an application by a local government for a grant pursuant to this article, the office or the State Architect may propose improvements to the project which will meet regional needs in a cost-effective manner. These improvements may include, but need not be limited to, structural strengthening, hardening of communication equipment, providing emergency power equipment, and other capital improvements which can be demonstrated as part of an emergency response plan which has a description of the critical facilities needed to support emergency response. The office, the State Architect, and the applicant may agree to include these capital improvements in the grant.

(b) In coordination with the Seismic Safety Commission and ~~agency~~ *the office*, and with the input of the potentially eligible local governments, the State Architect, consistent with Section 8878.90, shall establish a priority list of the types of potentially eligible local government buildings and facilities which are eligible to receive a state grant pursuant to this article.

(c) After completion of the priority list, the State Architect shall present this list of potentially eligible local government buildings and facilities to the Department of Finance for its review and consideration of whether to recommend to the Governor to include this list in the Budget Bill or other legislative proposal. The Legislature may review and appropriate funds available under this bond act for specific projects on the list which it deems appropriate.

(d) The State Architect shall allocate funds to local governments for the seismic retrofit of buildings or facilities based upon projects and appropriations approved in the Budget Bill or some other bill by the Legislature as provided in this section. Payments shall be made on a progress basis.

SEC. 248. Section 8878.125 of the Government Code is amended to read:

8878.125. (a) The proceeds from the sale of the bonds pursuant to this chapter shall not replace or supplant funds available from

the Federal Emergency Management Agency (FEMA). If funds are received from FEMA for costs applied for under this chapter, then proceeds from the fund shall not be allocated, or if already allocated, then the fund shall be reimbursed for any ineligible amount.

(b) No allocations shall be made from the fund for local buildings or facilities that qualified for state or federal assistance under the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680)) for retrofitting, reconstruction, repair, replacement, or relocation of structures damaged by a disaster until the ~~agency~~ *office* determines either: (1) that reasonable efforts have been made to secure other state and federal funds, or (2) that the other sources of funding are insufficient to make the necessary seismic improvements. Similarly, no allocations from the fund shall be made for state buildings or facilities unless the Department of Finance determines either: (1) the responsible agency has made reasonable efforts to secure other state and federal funds, or (2) that the other sources of funding are insufficient to correct state buildings or facilities that are seismically unsafe or suffer from other safety deficiencies.

SEC. 249. Section 8879.7 of the Government Code is amended to read:

8879.7. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Seismic Retrofit Finance Committee is hereby created. For the purposes of this chapter, the Seismic Retrofit Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, and the Secretary of ~~the Business, Transportation and Housing Agency,~~ *Transportation,* or a designated representative of each of those officials. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) The committee may adopt guidelines establishing requirements for administration of its financing programs to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(c) For the purposes of the State General Obligation Bond Law, any department receiving an allocation from the Department of Finance is designated to be the "board."

SEC. 250. Section 8879.23 of the Government Code is amended to read:

8879.23. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 is hereby created in the State Treasury. The Legislature intends that the proceeds of bonds deposited in the fund shall be used to fund the mobility, safety, and air quality improvements described in this article over the course of the next decade. The proceeds of bonds issued and sold pursuant to this chapter for the purposes specified in this chapter shall be allocated in the following manner:

(a) (1) Four billion five hundred million dollars ($4,500,000,000) shall be deposited in the Corridor Mobility Improvement Account, which is hereby created in the fund. Funds in the account shall be available to the California Transportation Commission, upon appropriation in the annual Budget Bill by the Legislature, for allocation for performance improvements on highly congested travel corridors in California. Funds in the account shall be used for performance improvements on the state highway system, or major access routes to the state highway system on the local road system that relieve congestion by expanding capacity, enhancing operations, or otherwise improving travel times within these high-congestion travel corridors, as identified by the department and regional or local transportation agencies, pursuant to the process in paragraph (3) or (4), as applicable.

(2) The commission shall develop and adopt guidelines, by December 1, 2006, including regional programming targets, for the program funded by this subdivision, and shall allocate funds from the account to projects after reviewing project nominations submitted by the Department of Transportation and by regional transportation planning agencies or county transportation commissions or authorities pursuant to paragraph (4).

(3) Subject to the guidelines adopted pursuant to paragraph (2), the department shall nominate, by no later than January 15, 2007, projects for the allocation of funds from the account on a statewide basis. The department's nominations shall be geographically balanced and shall reflect the department's assessment of a program that best meets the policy objectives described in paragraph (1).

(4) Subject to the guidelines adopted pursuant to paragraph (2), a regional transportation planning agency or county transportation commission or authority responsible for preparing a regional transportation improvement plan under Section 14527 may nominate projects identified pursuant to paragraph (1) that best meet the policy objectives described in that paragraph for funding from the account. Projects nominated pursuant to this paragraph shall be submitted to the commission for consideration for funding by no later than January 15, 2007.

(5) All nominations to the California Transportation Commission shall be accompanied by documentation regarding the quantitative and qualitative measures validating each project's consistency with the policy objectives described in paragraph (1). All projects nominated to the commission for funds from this account shall be included in a regional transportation plan.

(6) After review of the project nominations, and supporting documentation, the commission, by no later than March 1, 2007, shall adopt an initial program of projects to be funded from the account. This program may be updated every two years in conjunction with the biennial process for adoption of the state transportation improvement program pursuant to guidelines adopted by the commission. The inclusion of a project in the program shall be based on a demonstration that the project meets all of the following criteria:

(A) Is a high-priority project in the corridor as demonstrated by either of the following: (i) its inclusion in the list of nominated projects by both the department pursuant to paragraph (3) and the regional transportation planning agency or county transportation commission or authority, pursuant to paragraph (4); or (ii) if needed to fully fund the project, the identification and commitment of supplemental funding to the project from other state, local, or federal funds.

(B) Can commence construction or implementation no later than December 31, 2012.

(C) Improves mobility in a high-congestion corridor by improving travel times or reducing the number of daily vehicle hours of delay, improves the connectivity of the state highway system between rural, suburban, and urban areas, or improves the operation or safety of a highway or road segment.

(D) Improves access to jobs, housing, markets, and commerce.

(7) Where competing projects offer similar mobility improvements to a specific corridor, the commission shall consider additional benefits when determining which project shall be included in the program for funding. These benefits shall include, but are not limited to, the following:

(A) A finding that the project provides quantifiable air quality benefits.

(B) A finding that the project substantially increases the safety for travelers in the corridor.

(8) In adopting a program for funding pursuant to this subdivision, the commission shall make a finding that the program is geographically balanced, consistent with the geographic split for funding described in Section 188 of the Streets and Highways Code; provides mobility improvements in highly traveled or highly congested corridors in all regions of California; and targets bond proceeds in a manner that provides the increment of funding necessary, when combined with other state, local, or federal funds, to provide the mobility benefit in the earliest possible timeframe.

(9) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the mobility improvements the program is achieving.

(b) One billion dollars ($1,000,000,000) shall be made available, upon appropriation in the annual Budget Bill by the Legislature, to the department for improvements to State Route 99. Funds may be used for safety, operational enhancements, rehabilitation, or capacity improvements necessary to improve the State Route 99 corridor traversing approximately 400 miles of the central valley of this state.

(c) Three billion one hundred million dollars ($3,100,000,000) shall be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account, which is hereby created in the fund. The money in the account shall be available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, as follows:

(1) (A) Two billion dollars ($2,000,000,000) shall be transferred to the Trade Corridors Improvement Fund, which is hereby created.

The money in this fund shall be available, upon appropriation in the annual Budget Bill by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission for infrastructure improvements along federally designated "Trade Corridors of National Significance" in this state or along other corridors within this state that have a high volume of freight movement, as determined by the commission. In determining projects eligible for funding, the commission shall consult the trade infrastructure and goods movement plan submitted to the commission by the Secretary of ~~Business,~~ Transportation ~~and Housing~~ and the Secretary for Environmental Protection. No moneys shall be allocated from this fund until the report is submitted to the commission for its consideration, provided the report is submitted no later than January 1, 2007. The commission shall also consult trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the statewide port master plan prepared by the California Marine and Intermodal Transportation System Advisory Council (Cal-MITSAC) pursuant to Section 1760 of the Harbors and Navigation Code, when determining eligible projects for funding. Eligible projects for these funds include, but are not limited to, all of the following:

(i) Highway capacity improvements and operational improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state's seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

(ii) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers throughout California, including projects that separate rail lines from highway or local road traffic, improve freight rail mobility through mountainous regions, relocate rail switching yards, and other projects that improve the efficiency and capacity of the rail freight system.

(iii) Projects to enhance the capacity and efficiency of ports.

(iv) Truck corridor improvements, including dedicated truck facilities or truck toll facilities.

(v) Border access improvements that enhance goods movement between California and Mexico and that maximize the state's ability to access coordinated border infrastructure funds made available to the state by federal law.

(vi) Surface transportation improvements to facilitate the movement of goods to and from the state's airports.

(B) The commission shall allocate funds for trade infrastructure improvements from the account in a manner that (i) addresses the state's most urgent needs, (ii) balances the demands of various ports (between large and small ports, as well as between seaports, airports, and land ports of entry), (iii) provides reasonable geographic balance between the state's regions, and (iv) places emphasis on projects that improve trade corridor mobility while reducing emissions of diesel particulate and other pollutant emissions. In addition, the commission shall also consider the following factors when allocating these funds:

(i) "Velocity," which means the speed by which large cargo would travel from the port through the distribution system.

(ii) "Throughput," which means the volume of cargo that would move from the port through the distribution system.

(iii) "Reliability," which means a reasonably consistent and predictable amount of time for cargo to travel from one point to another on any given day or at any given time in California.

(iv) "Congestion reduction," which means the reduction in recurrent daily hours of delay to be achieved.

(C) The commission shall allocate funds made available by this paragraph to projects that have identified and committed supplemental funding from appropriate local, federal, or private sources. The commission shall determine the appropriate amount of supplemental funding each project should have to be eligible for moneys from this fund based on a project-by-project review and an assessment of the project's benefit to the state and the program. Except for border access improvements described in clause (v) of subparagraph (A), improvements funded with moneys from this fund shall have supplemental funding that is at least equal to the amount of the contribution from the fund. The commission may give priority for funding to projects with higher levels of committed supplemental funding.

(D) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the mobility and air quality improvements the program is achieving.

(2) One billion dollars ($1,000,000,000) shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors. Funds made available by this paragraph are intended to supplement existing funds used to finance strategies and public benefit projects that reduce emissions and improve air quality in trade corridors commencing at the state's airports, seaports, and land ports of entry.

(3) One hundred million dollars ($100,000,000) shall be available, upon appropriation by the Legislature, to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* to be allocated, as grants, for port, harbor, and ferry terminal security improvements. Eligible applicants shall be publicly owned ports, harbors, and ferryboat and ferry terminal operators, which may submit applications for projects that include, but are not limited to, the following:

(A) Video surveillance equipment.

(B) Explosives detection technology, including, but not limited to, X-ray devices.

(C) Cargo scanners.

(D) Radiation monitors.

(E) Thermal protective equipment.

(F) Site identification instruments capable of providing a fingerprint for a broad inventory of chemical agents.

(G) Other devices capable of detecting weapons of mass destruction using chemical, biological, or other similar substances.

(H) Other security equipment to assist in any of the following:

(i) Screening of incoming vessels, trucks, and incoming or outbound cargo.

(ii) Monitoring the physical perimeters of harbors, ports, and ferry terminals.

(iii) Providing or augmenting onsite emergency response capability.

(I) Overweight cargo detection equipment, including, but not limited to, intermodal crane scales and truck weight scales.

(J) Developing disaster preparedness or emergency response plans.

(d) Two hundred million dollars ($200,000,000) shall be available, upon appropriation by the Legislature, for schoolbus retrofit and replacement to reduce air pollution and to reduce children's exposure to diesel exhaust.

(e) Two billion dollars ($2,000,000,000) shall be available for projects in the state transportation improvement program, to augment funds otherwise available for this purpose from other sources. The funds provided by this subdivision shall be deposited in the Transportation Facilities Account which is hereby created in the fund, and shall be available, upon appropriation by the Legislature, to the Department of Transportation, as allocated by the California Transportation Commission in the same manner as funds allocated for those projects under existing law.

(f) (1) Four billion dollars ($4,000,000,000) shall be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account, which is hereby created in the fund. Funds in the account shall be made available, upon appropriation by the Legislature, to the Department of Transportation for intercity rail projects and to commuter or urban rail operators, bus operators, waterborne transit operators, and other transit operators in California for rehabilitation, safety or modernization improvements, capital service enhancements or expansions, new capital projects, bus or rapid transit improvements, or for rolling stock procurement, rehabilitation, or replacement.

(2) Of the funds made available in paragraph (1), four hundred million dollars ($400,000,000) shall be available, upon appropriation by the Legislature, to the department for intercity rail improvements, of which one hundred twenty-five million dollars ($125,000,000) shall be used for the procurement of additional intercity railcars and locomotives.

(3) Of the funds remaining after the allocations in paragraph (2), 50 percent shall be distributed to the Controller, for allocation

to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be distributed to the Controller, for allocation to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections.

(g) One billion dollars ($1,000,000,000) shall be deposited in the State-Local Partnership Program Account, which is hereby created in the fund. The funds shall be available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission over a five-year period to eligible transportation projects nominated by an applicant transportation agency. A dollar-for-dollar match of local funds shall be required for an applicant transportation agency to receive state funds under this program.

(h) One billion dollars ($1,000,000,000) shall be deposited in the Transit System Safety, Security, and Disaster Response Account, which is hereby created in the fund. Funds in the account shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for capital projects that provide increased protection against a security and safety threat, and for capital expenditures to increase the capacity of transit operators, including waterborne transit operators, to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(i) One hundred twenty-five million dollars ($125,000,000) shall be deposited in the Local Bridge Seismic Retrofit Account, which is hereby created in the fund. The funds in the account shall be used, upon appropriation by the Legislature, to provide the 11.5 percent required match for federal Highway Bridge Replacement and Repair funds available to the state for seismic work on local bridges, ramps, and overpasses, as identified by the Department of Transportation.

(j) (1) Two hundred fifty million dollars ($250,000,000) shall be deposited in the Highway-Railroad Crossing Safety Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, to the Department of Transportation for the completion of high-priority grade

separation and railroad crossing safety improvements. Funds in the account shall be made available for allocation pursuant to the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code, except that a dollar-for-dollar match of nonstate funds shall be provided for each project, and the limitation on maximum project cost in subdivision (g) of Section 2454 of the Streets and Highways Code shall not be applicable to projects funded with these funds.

(2) Notwithstanding the funding allocation process described in paragraph (1), in consultation with the department and the Public Utilities Commission, the California Transportation Commission shall allocate one hundred million dollars ($100,000,000) of the funds in the account to high-priority railroad crossing improvements, including grade separation projects, that are not part of the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code. The allocation of funds under this paragraph shall be made in consultation and coordination with the High-Speed Rail Authority created pursuant to Division 19.5 (commencing with Section 185000) of the Public Utilities Code.

(k) (1) Seven hundred fifty million dollars ($750,000,000) shall be deposited in the Highway Safety, Rehabilitation, and Preservation Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, to the Department of Transportation, as allocated by the California Transportation Commission, for the purposes of the state highway operation and protection program as described in Section 14526.5.

(2) The department shall develop a program for distribution of two hundred fifty million dollars ($250,000,000) from the funds identified in paragraph (1) to fund traffic light synchronization projects or other technology-based improvements to improve safety, operations, and the effective capacity of local streets and roads.

(*l*) (1) Two billion dollars ($2,000,000,000) shall be deposited in the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006, which is hereby created in the fund. The proceeds of bonds deposited into that account shall be available, upon appropriation by the Legislature, for the purposes specified in this subdivision to the Controller for

administration and allocation in the fiscal year in which the bonds are issued and sold, including any interest or other return earned on the investment of those moneys, in the following manner:

(A) Fifty percent to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(ii) Twenty-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this clause, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(B) Fifty percent to the cities, including a city and county, apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state, provided, however, that the Controller shall allocate a minimum of four hundred thousand dollars ($400,000) to each city, pursuant to this subparagraph.

(2) Funds received under this subdivision shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(A) In the case of a city, into the city account that is designated for the receipt of state funds allocated for local streets and roads.

(B) In the case of an eligible county, into the county road fund.

(C) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for local streets and roads.

(3) For the purpose of allocating funds under this subdivision to cities and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit,

the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(4) Funds apportioned to a city, county, or city and county under this subdivision, including any interest or other return earned on the investment of those funds, shall be used for improvements to transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to, street and highway pavement maintenance, rehabilitation, installation, construction, and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation, construction, and reconstruction of facilities that expand ridership on transit systems, safety projects to reduce fatalities, or as a local match to obtain state or federal transportation funds for similar purposes.

(5) At the conclusion of each fiscal year during which a city or county expends the funds it has received under this subdivision, including any interest or other return earned on the investment of these funds, the Controller may verify the city's or county's compliance with paragraph (4). Any city or county that has not complied with paragraph (4) shall reimburse the state for the funds it received during that fiscal year, including any interest or other return earned on the investment of these funds. Any funds withheld or returned as a result of a failure to comply with paragraph (4) shall be reallocated to the other counties and cities whose expenditures are in compliance.

SEC. 251. Section 8879.27 of the Government Code is amended to read:

8879.27. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Committee is hereby created. For the purposes of this chapter, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, and the Secretary of ~~the Business, Transportation and Housing Agency,~~ *Transportation*, or a designated representative of each of those officials. The Treasurer

shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) The committee may adopt guidelines establishing requirements for administration of its financing programs to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(c) For the purposes of the State General Obligation Bond Law, any department receiving an allocation pursuant to this chapter is designated to be the "board."

SEC. 252. Section 8879.50 of the Government Code is amended to read:

8879.50. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20), the following terms have the following meanings:

(1) "Commission" means the California Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20), as specified in subdivision (c).

(4) Unless otherwise specified in this chapter, "project" includes equipment purchase, construction, right-of-way acquisition, and project delivery costs.

(5) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) that is responsible for implementation of an approved project.

(6) "Fund" shall have the same meaning as in subdivision (c) of Section 8879.20.

(b) Administrative costs, including audit and program oversight costs for agencies, commissions, or departments administering programs funded pursuant to this chapter, recoverable by bond funds shall not exceed 3 percent of the program's cost.

(c) The administrative agency for each bond account is as follows:

(1) The commission is the administrative agency for the Corridor Mobility Improvement Account; the Trade Corridors Improvement Fund; the Transportation Facilities Account; the State Route 99 Account; the State-Local Partnership Program Account; the Local

Bridge Seismic Retrofit Account; the Highway-Railroad Crossing Safety Account; and the Highway Safety, Rehabilitation, and Preservation Account.

(2) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* is the administrative agency for the Port and Maritime Security Account and the Transit System Safety, Security, and Disaster Response Account.

(3) The department is the administrative agency for the Public Transportation Modernization, Improvement, and Service Enhancement Account.

(d) The administrative agency shall not approve project fund allocations for a project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for usable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3), and shall do all of the following:

(1) Provide for the audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain

within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 253. Section 8879.53 of the Government Code is amended to read:

8879.53. (a) Funds for the program contained in paragraph (3) of subdivision (c) of Section 8879.23 shall be deposited in the Port and Maritime Security Account, which is hereby created in the fund. For purposes of this section, "agency" *or "office"* means the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(b) Funds in the account shall be available to the ~~agency~~ *office*, upon appropriation by the Legislature. Funds shall be made available as grants to eligible applicants, as defined in paragraph (3) of subdivision (c) of Section 8879.23, for capital projects that include, but are not limited to, those projects described in paragraph (3) of subdivision (c) of Section 8879.23.

(c) Prior to allocating funds to projects from the account, the ~~agency~~ *office* shall adopt guidelines to establish the criteria and process for the distribution of funds. At least 30 days prior to adopting the guidelines, the ~~agency~~ *office* shall hold a public hearing on the proposed guidelines and shall provide opportunity for public review and comment.

(d) In allocating funds from the account, the ~~agency~~ *office* shall do the following:

(1) Address the state's most urgent maritime security needs.

(2) Balance the demands of the various large and small ports.

(3) Provide reasonable geographic balance in the distribution of funds.

(e) The unencumbered balance of any funds appropriated to the ~~agency~~ *office* prior to June 30, 2009, for purposes of this section,

shall remain available to the ~~agency~~ *office* for encumbrance pursuant to this section until June 30, 2012.

(f) The ~~agency's~~ *office's* activities to implement this section shall be incorporated into the report to the Legislature required in paragraph (3) of subdivision (c) of Section 8879.23.

SEC. 254. Section 8879.57 of the Government Code is amended to read:

8879.57. Funds made available, upon appropriation of the Legislature, from the Transit System Safety, Security, and Disaster Response Account, created in subdivision (h) of Section 8879.23, shall be allocated as follows:

(a) (1) Sixty percent of available funds shall be allocated for capital expenditures to agencies and transit operators eligible to receive State Transit Assistance funds using the formula in Sections 99313 and 99314 of the Public Utilities Code, including commuter rail operators eligible to receive State Transit Assistance funds. Of these funds, 50 percent shall be allocated to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be allocated to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections. Funds allocated to the Metropolitan Transportation Commission using the formula in Section 99313 of the Public Utilities Code shall be suballocated to transit operators within its jurisdiction using the formula in Section 99314 of the Public Utilities Code. In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, funds that are to be allocated using the formula in Section 99314 of the Public Utilities Code for the Southern California Regional Rail Authority shall be allocated to the applicable county transportation commission in each county served by the authority within that region. The county transportation commission, subject to the applicable provisions governing funds allocated under that section that are consistent with this section, shall use or allocate the funds for eligible capital expenditures as described in paragraph (2), including, but not limited to, eligible expenditures on the system of the Southern California Regional Rail Authority. The county transportation commission may suballocate these funds to the Southern California Regional Rail Authority for those purposes.

(2) Eligible capital expenditures shall include either of the following:

(A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other safety- or security-related projects approved by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(b) (1) Twenty-five percent of available funds shall be allocated for capital expenditures to regional public waterborne transit agencies authorized to operate a regional public water transit system, including the operation of water transit vessels, terminals, and feeder buses, and not otherwise eligible to receive State Transit Assistance funds as of the effective date of this article. Funds shall be allocated for eligible capital expenditures that enhance the capacity of regional public waterborne transit agencies to provide disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster or emergency.

(2) Eligible capital expenditures include, but are not limited to, the construction or acquisition of new vessels, the capital improvement or construction of docks, terminals, or other waterborne transit facilities, the purchase of related equipment, and the construction of fueling facilities. A project shall (A)

provide capital facilities and equipment to a regional public waterborne transit system that enhances the ability of the system to respond to a regional emergency, (B) be included in a regional plan, including, but not limited to, a regional plan for waterborne transit expansion or disaster response preparedness, and (C) provide maximum flexibility in responding to disasters or emergencies.

(c) (1) Fifteen percent of available funds shall be made available for capital expenditures to the intercity passenger rail system described in Section 14035 and to the commuter rail systems operated by the entities specified in Section 14072 and in Section 99314.1 of the Public Utilities Code.

(2) Eligible capital expenditures shall include either of the following:

(A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other safety- or security-related projects approved by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*.

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(d) (1) An entity that is eligible to receive funds pursuant to subdivision (a) or (c) shall, within 45 days of the date the Controller makes public the list of eligible recipients pursuant to Section 8879.58, provide a document, in a form as designated by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, to

the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* that indicates the intent to use those funds, the project or projects for which the funds will be used, and a schedule of funds to be drawn down. If the entity does not submit the document required under this paragraph, the funds allocated to the entity pursuant to subdivision (a) or (c) shall be reallocated by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* in accordance with paragraph (2). This paragraph also applies to transit operators receiving a suballocation from a transportation planning agency, in which case the operator rather than the transportation planning agency is required to provide the document.

(2) The ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall notify the transportation planning agency if funds allocated to an entity within the region of the transportation planning agency are being reallocated pursuant to paragraph (1). The transportation planning agency shall have 30 days to provide a document, in a form as designated by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* indicating its intent to distribute those funds to transit operators or rail operators for purposes authorized under subdivision (a) or (c). An agency providing that document shall receive an allocation of the funds. If the transportation planning agency does not provide the document within 30 days, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* may allocate the funds on a competitive basis, pursuant to guidelines established by the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, to an entity in a different region of the state that is an eligible entity under subdivision (a) or (c). An eligible entity that is notified that it will be awarded these funds shall, as a condition of receiving the funds, satisfy the requirements of paragraph (1) within 45 days of being advised of the reallocation. As used in this subdivision, "transportation planning agency" includes the county transportation commission in counties that have such a commission.

(3) The formula that applies to State Transit Assistance funds shall not apply to a reallocation of funds under this subdivision.

SEC. 255. Section 8879.58 of the Government Code, as amended by Section 8 of Chapter 32 of the Statutes of 2012, is amended to read:

8879.58. (a) (1) No later than September 1 of the first fiscal year in which the Legislature appropriates funds from the Transit System Safety, Security, and Disaster Response Account, and no later than September 1 of each fiscal year thereafter in which funds are appropriated from that account, the Controller shall develop and make public a list of eligible agencies and transit operators and the amount of funds each is eligible to receive from the account pursuant to subdivision (a) of Section 8879.57. It is the intent of the Legislature that funds allocated to specified recipients pursuant to this section provide each recipient with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each eligible recipient is to receive under subdivision (a) of Section 8879.57 from appropriated funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(3) In establishing the amount of funding each eligible recipient is eligible to receive under subdivision (a) of Section 8879.57 from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(4) The Controller shall notify eligible recipients of the amount of funding each is eligible to receive pursuant to subdivision (a) of Section 8879.57 for the duration of time that these funds are made available for these purposes based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible project, an agency or transit operator on the public list described in paragraph (1) of subdivision (a) shall submit to the ~~California Emergency Management Agency~~ *Office of Emergency Services* a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following:

(1) A summary of the proposed project that describes the safety, security, or emergency response benefit that the project intends to achieve.

(2) That the useful life of the project shall not be less than the required useful life for capital assets specified in subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the agency shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become, fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, the agency shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, the agency shall prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public and that demonstrate the ability and intent to expend a significant percentage of project funds within six months have the highest priority and (B) to the maximum extent possible, the list reflects a distribution of funding that is geographically balanced.

(e) Upon receipt of the information from the agency required by subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to eligible agencies and transit operators sponsoring projects on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one eligible agency or transit operator shall not exceed that agency's or transit operator's share of funds from the account pursuant to the formula contained in subdivision (a) of Section 8879.57.

(f) During each fiscal year that an agency or transit operator receives funds pursuant to this section, the ~~California Emergency Management Agency~~ *Office of Emergency Services* may monitor the project expenditures to ensure compliance with this section.

(g) The Controller's office may, pursuant to Section 12410, use its authority to audit the use of state bond funds on projects receiving an allocation under this section. Each eligible agency or transit operator sponsoring a project subject to an audit shall provide any and all data requested by the Controller's office in

order to complete the audit. The Controller's office shall transmit copies of all completed audits to the agency and to the policy committees of the Legislature with jurisdiction over transportation and budget issues.

SEC. 256. Section 8879.59 of the Government Code, as amended by Section 9 of Chapter 32 of the Statutes of 2012, is amended to read:

8879.59. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to transit agencies eligible to receive funds pursuant to subdivision (b) of Section 8879.57, the ~~California Emergency Management Agency (Cal EMA)~~ *Office of Emergency Services* shall administer a grant application and award program for those transit agencies.

(b) Funds awarded to transit agencies pursuant to this section shall be for eligible capital expenditures as described in subdivision (b) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, ~~Cal EMA~~ *the office* shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, ~~Cal EMA~~ *the office* shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, ~~Cal EMA~~ *the office* shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to ~~Cal EMA~~ *the office* for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, ~~Cal EMA~~ *the office* shall prioritize projects so that projects addressing the greatest risks to the public and that demonstrate the ability and

intent to expend a significant percentage of project funds within six months have the highest priority.

(g) No later than February 1, ~~Cal EMA~~ *the office* shall select eligible projects to receive grants under this section and shall provide the Controller with a list of the projects and the sponsoring agencies eligible to receive an allocation from the account. Upon receipt of this information, the Controller's office shall commence any necessary actions to allocate funds to those agencies, including, but not limited to, seeking the issuance of bonds for that purpose. Grants awarded to eligible transit agencies pursuant to subdivision (b) of Section 8879.57 shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

(h) During each fiscal year that a transit agency receives funds pursuant to this section, ~~Cal EMA~~ *the office* may monitor the project expenditures to ensure project funds are expended in compliance with the submitted project nomination.

SEC. 257. Section 8879.60 of the Government Code is amended to read:

8879.60. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to intercity and commuter rail operators eligible to receive funds pursuant to subdivision (c) of Section 8879.57, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall administer a grant application and award program for those intercity and commuter rail operators.

(b) Funds awarded to intercity and commuter rail operators pursuant to this section shall be for eligible capital expenditures as described in subdivision (c) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, the ~~agency~~ *office* shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, the ~~agency~~ *office* shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, the ~~agency~~ *office* shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible intercity and commuter rail operators may submit project nominations for funding to the

agency for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, the ~~agency~~ *office* shall select eligible projects to receive grants under this section. Grants awarded to intercity and commuter rail operators pursuant to subdivision (c) of Section 8879.57 shall be for eligible capital expenditures, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of that section.

SEC. 258. Section 8879.61 of the Government Code is amended to read:

8879.61. (a) (1) Entities described in subdivisions (a), (b), and (c) of Section 8879.57 receiving an allocation of funds pursuant to this article shall expend those funds within three fiscal years of the fiscal year in which the funds were allocated. Funds remaining unexpended thereafter shall revert to the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* for reallocation under this article in subsequent fiscal years.

(2) Notwithstanding paragraph (1), for an allocation of funds made prior to June 30, 2011, to an entity described in subdivision (b) of Section 8879.57, that entity shall have four fiscal years from the last day of the fiscal year in which the funds were received by that entity to expend those funds.

(b) Entities that receive grant awards from funds allocated pursuant to subdivision (b) of Section 8879.57 are not eligible to receive awards from the funds allocated pursuant to subdivision (a) of Section 8879.57.

(c) Funds appropriated for the program established by this article in the Budget Act of 2007 shall be allocated consistent with the allocation schedule established in Section 8879.57.

(d) On or before May 1 of each year, the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate Committee on Transportation and Housing,

the Assembly Committee on Transportation, and the Legislative Analyst's Office on its activities under this article. The report shall include a summary of the projects selected for funding during the fiscal year in which awards were made, the status of projects selected for funding in prior fiscal years, and a list of all transit entities that have not used funds allocated to the transit entities pursuant to Section 8879.57.

SEC. 259. Section 8886 of the Government Code is amended to read:

8886. (a) The membership of the California Broadband Council shall include all of the following:

(1) The ~~State Chief Information Officer~~ *Director of Technology*, or his or her designee.

(2) The President of the Public Utilities Commission, or his or her designee.

(3) The ~~Secretary of California Emergency Management~~ *Director of Emergency Services*, or his or her designee.

(4) The Superintendent of Public Instruction, or his or her designee.

(5) The Director of General Services, or his or her designee.

(6) The Secretary of ~~Business, Transportation and Housing,~~ *Transportation*, or his or her designee.

(7) The President of the California Emerging Technology Fund, or his or her designee.

(8) A member of the Senate, appointed by the Senate Committee on Rules.

(9) A member of the Assembly, appointed by the Speaker of the Assembly.

(b) Members of the Legislature appointed to the council shall participate in the activities of the council to the extent that their participation is not incompatible with their positions as Members of the Legislature.

SEC. 260. Section 11018.5 of the Government Code is amended to read:

11018.5. (a) The ~~Department of Real Estate~~ *Bureau of Real Estate*, on or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with

Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), including information relative to suspensions and revocations of licenses issued by that state agency and other related enforcement action taken against persons, businesses, or facilities subject to licensure or regulation by a state agency.

(b) The ~~Department of Real Estate~~ *Bureau of Real Estate* shall disclose information on its licensees, including real estate brokers and agents, on the Internet that is in compliance with the ~~department's~~ *bureau's* public record access guidelines. In instances where licensees use their home address as a mailing address, the ~~department~~ *bureau* shall allow licensees to provide a post office box number or other alternate address where correspondence may be received. Notwithstanding the foregoing, real estate brokers shall provide the ~~department~~ *bureau* with the actual address of their place or places of business as required by Section 10162 of the Business and Professions Code.

(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

SEC. 261. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session

when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the ~~California Integrated Waste Management Board~~ *Department of Resources Recycling and Recovery* or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters

pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to

Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the ~~Secretary of Emergency Management~~ *Director of Emergency Services* or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to

the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy,

pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

SEC. 262. Section 11340.2 of the Government Code is amended to read:

11340.2. (a) The Office of Administrative Law is hereby established in state government *in the Government Operations Agency*. The office shall be under the direction and control of an executive officer who shall be known as the director. There shall also be a deputy director. The director's term and the deputy director's term of office shall be coterminous with that of the appointing power, except that they shall be subject to reappointment.

(b) The director and deputy director shall have the same qualifications as a hearing officer and shall be appointed by the Governor subject to the confirmation of the Senate.

SEC. 263. Section 11534 of the Government Code is amended to read:

11534. (a) There is in state government, in the ~~California Technology~~ *Government Operations* Agency, the ~~Office~~ *Department* of Technology ~~Services~~*, which shall include an Office of Technology Services*.

(b) The purpose of this article is to establish a general purpose technology services provider to serve the common technology needs of executive branch entities with accountability to customers for providing secure services that are responsive to client needs at a cost representing best value to the state.

(c) The purpose of this chapter is to improve and coordinate the use of technology and to coordinate and cooperate with all public agencies in the state in order to eliminate duplications and to bring about economies that could not otherwise be obtained.

(d) Unless the context clearly requires otherwise, whenever the term "Department of Technology Services" appears in any statute, regulation, or contract, it shall be deemed to refer to the ~~Office~~ *Department* of Technology ~~Services~~, and whenever the term "Director of Technology Services" *or "Secretary of California Technology"* appears in statute, regulation, or contract, *or any other law,* it shall be deemed to refer to the ~~Secretary~~ *Director* of ~~California~~ Technology.

(e) Unless the context clearly requires otherwise, the ~~Office~~ *Department* of Technology ~~Services~~ and the ~~Secretary~~ *Director* of ~~California~~ Technology succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the former *Office of Technology Services,* Department of Technology Services ~~and the former~~, Director of Technology Services, *and Secretary of California Technology,* respectively.

(f) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the ~~Office~~ *Department* of Technology ~~Services~~, are transferred to the ~~Office~~ *Department* of Technology ~~Services~~. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the ~~Office~~ *Department* of Technology ~~Services~~.

(g) The property of any office, agency, or department related to functions transferred to the ~~Office~~ *Department* of Technology ~~Services~~ is transferred to the ~~Office~~ *Department* of Technology ~~Services~~. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(h) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the ~~Office~~ *Department* of Technology ~~Services~~ shall be transferred to the ~~Office~~ *Department* of Technology ~~Services~~ for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and

funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 264. Section 11541 of the Government Code is amended to read:

11541. (a) The ~~Office~~ *Department* of Technology ~~Services~~ may acquire, install, equip, maintain, and operate new or existing business telecommunications systems and services. Acquisitions for information technology goods and services shall be made pursuant to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. To accomplish that purpose, the ~~Office of Technology Services~~ *department* may enter into contracts, obtain licenses, acquire personal property, install necessary equipment and facilities, and do other acts that will provide adequate and efficient business telecommunications systems and services. Any system established shall be made available to all public agencies in the state on terms that may be agreed upon by the agency and the ~~Office of Technology Services~~ *department*.

(b) With respect to business telecommunications systems and services, the ~~Office of Technology Services~~ *department* may do all of the following:

(1) Provide representation of public agencies before the Federal Communications Commission in matters affecting the state and other public agencies regarding business telecommunications systems and services issues.

(2) Provide, upon request, advice to public agencies concerning existing or proposed business telecommunications systems and services between any and all public agencies.

(3) Recommend to public agencies rules, regulations, procedures, and methods of operation that it deems necessary to effectuate the most efficient and economical use of business telecommunications systems and services within the state.

(4) Carry out the policies of this chapter.

(c) The ~~Office of Technology Services~~ *department* has responsibilities with respect to business telecommunications systems, services, policy, and planning, which include, but are not limited to, all of the following:

(1) Assessing the overall long-range business telecommunications needs and requirements of the state considering both routine and emergency operations for business

telecommunications systems and services, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and other factors deemed to be important to state needs and requirements.

(2) Developing strategic and tactical policies and plans for business telecommunications with consideration for the systems and requirements of public agencies.

(3) Recommending industry standards, service level agreements, and solutions regarding business telecommunications systems and services to ensure multiuser availability and compatibility.

(4) Providing advice and assistance in the selection of business telecommunications equipment to ensure all of the following:

(A) Ensuring that the business telecommunications needs of state agencies are met.

(B) Ensuring that procurement is compatible throughout state agencies and is consistent with the state's strategic and tactical plans for telecommunications.

(C) Ensuring that procurement is designed to leverage the buying power of the state and encourage economies of scale.

(5) Providing management oversight of statewide business telecommunications systems and services developments.

(6) Providing for coordination of, and comment on, plans and policies and operational requirements from departments that utilize business telecommunications systems and services as determined by the ~~Office of Technology Services~~ *department*.

(7) Monitoring and participating, on behalf of the state, in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations that have an impact on state governmental business telecommunications activities.

(d) The ~~Office of Technology Services~~ *department* shall develop and describe statewide policy on the use of business telecommunications systems and services by state agencies. In the development of that policy, the ~~Office of Technology Services~~ *department* shall ensure that access to state business information and services is improved, and that the policy is cost effective for the state and its residents. The ~~Office of Technology Services~~ *department* shall develop guidelines that do all of the following:

(1) Describe what types of state business information and services may be accessed using business telecommunications systems and services.

(2) Characterize the conditions under which a state agency may utilize business telecommunications systems and services.

(3) Characterize the conditions under which a state agency may charge for information and services.

(4) Specify pricing policies.

(5) Provide other guidance as may be appropriate at the discretion of the Office of Technology Services.

~~(e) It is the intent of the Legislature that this section supersede Section 11541 of the Government Code, as added by Section 1 of the Governor's Reorganization Plan No. 2, effective July 9, 2005.~~

SEC. 265. Section 11542 of the Government Code is amended to read:

11542. (a) (1) The Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center are consolidated within, and their functions are transferred to, the ~~Office~~ *Department* of Technology ~~Services~~.

(2) Except as expressly provided otherwise in this chapter, the ~~Office~~ *Department* of Technology ~~Services~~ is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Stephen P. Teale Data Center, and the California Health and Human Services Agency Data Center. Any reference in statutes, regulations, or contracts to those entities with respect to the transferred functions shall be construed to refer to the ~~Office~~ *Department* of Technology ~~Services~~ unless the context clearly requires otherwise.

(3) No contract, lease, license, or any other agreement to which either the Stephen P. Teale Data Center or the California Health and Human Services Agency Data Center is a party shall be void or voidable by reason of this chapter, but shall continue in full force and effect, with the ~~Office~~ *Department* of Technology ~~Services~~ assuming all of the rights, obligations, and duties of the Stephen P. Teale Data Center or the California Health and Human Services Agency Data Center, respectively.

(4) Notwithstanding subdivision (e) of Section 11793 and subdivision (e) of Section 11797, on and after the effective date of this chapter, the balance of any funds available for expenditure by the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, with respect to business telecommunications systems and services functions in carrying out any functions transferred to the Office of Technology Services

by this chapter, shall be transferred to the Technology Services Revolving Fund created by Section 11544, and shall be made available for the support and maintenance of the ~~Office~~ *Department* of Technology ~~Services~~.

(5) All references in statutes, regulations, or contracts to the former Stephen P. Teale Data Center Fund or the California Health and Human Services Data Center Revolving Fund shall be construed to refer to the Technology Services Revolving Fund unless the context clearly requires otherwise.

(6) All books, documents, records, and property of the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, excluding the Systems Integration Division, shall be transferred to the ~~Office~~ *Department* of Technology ~~Services~~.

(7) (A) All officers and employees of the former Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, are transferred to the ~~Office~~ *Department* of Technology ~~Services~~.

(B) The status, position, and rights of any officer or employee of the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, shall not be affected by the transfer and consolidation of the functions of that officer or employee to the ~~Office~~ *Department* of Technology ~~Services~~.

(b) (1) All duties and functions of the Telecommunications Division of the Department of General Services are transferred to the ~~California~~ *Department of* Technology ~~Agency~~.

(2) Unless the context clearly requires otherwise, whenever the term "Telecommunications Division of the Department of General Services" *or "California Technology Agency"* appears in any statute, regulation, or contract, *or any other law,* it shall be deemed to refer to the ~~California~~ *Department of* Technology ~~Agency~~.

(3) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the California Technology Agency, are transferred to the ~~California~~ *Department of* Technology ~~Agency~~. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The

personnel records of all transferred employees shall be transferred to the ~~California~~ *Department of* Technology ~~Agency~~.

(4) The property of any office, agency, or department related to functions transferred to the California Technology Agency, are transferred to the ~~California~~ *Department of* Technology ~~Agency~~. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(5) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the ~~California~~ *Department of* Technology ~~Agency~~ shall be transferred to the ~~California~~ *Department of* Technology for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 266. Section 11546 of the Government Code, as amended by Section 11 of Chapter 32 of the Statutes of 2012, is amended to read:

11546. (a) The ~~California Technology Agency~~ *Department of Technology* shall be responsible for the approval and oversight of information technology projects, which shall include, but are not limited to, all of the following:

(1) Establishing and maintaining a framework of policies, procedures, and requirements for the initiation, approval, implementation, management, oversight, and continuation of information technology projects. Unless otherwise required by law, a state department shall not procure oversight services of information technology projects without the approval of the ~~California Technology Agency~~ *Department of Technology*.

(2) Evaluating information technology projects based on the business case justification, resources requirements, proposed technical solution, project management, oversight and risk mitigation approach, and compliance with statewide strategies, policies, and procedures. Projects shall continue to be funded through the established Budget Act process.

(3) Consulting with agencies during initial project planning to ensure that project proposals are based on well-defined programmatic needs, clearly identify programmatic benefits, and

consider feasible alternatives to address the identified needs and benefits consistent with statewide strategies, policies, and procedures.

(4) Consulting with agencies prior to project initiation to review the project governance and management framework to ensure that it is best designed for success and will serve as a resource for agencies throughout the project implementation.

(5) Requiring agencies to provide information on information technology projects including, but not limited to, all of the following:

(A) The degree to which the project is within approved scope, cost, and schedule.

(B) Project issues, risks, and corresponding mitigation efforts.

(C) The current estimated schedule and costs for project completion.

(6) Requiring agencies to perform remedial measures to achieve compliance with approved project objectives. These remedial measures may include, but are not limited to, any of the following:

(A) Independent assessments of project activities, the cost of which shall be funded by the agency administering the project.

(B) Establishing remediation plans.

(C) Securing appropriate expertise, the cost of which shall be funded by the agency administering the project.

(D) Requiring additional project reporting.

(E) Requiring approval to initiate any action identified in the approved project schedule.

(7) Suspending, reinstating, or terminating information technology projects. The ~~agency~~ *department* shall notify the Joint Legislative Budget Committee of any project suspension, reinstatement, and termination within 30 days of that suspension, reinstatement, or termination.

(8) Establishing restrictions or other controls to mitigate nonperformance by agencies, including, but not limited to, any of the following:

(A) The restriction of future project approvals pending demonstration of successful correction of the identified performance failure.

(B) The revocation or reduction of authority for state agencies to initiate information technology projects or acquire information technology or telecommunications goods or services.

(b) The ~~California Technology Agency~~ *Department of Technology* shall have the authority to delegate to another agency any authority granted under this section based on its assessment of the agency's project management, project oversight, and project performance.

SEC. 267. Section 11546.2 of the Government Code is amended to read:

11546.2. On or before February 1, 2011, and annually thereafter, each state agency and state entity subject to Section 11546.1, shall submit, as instructed by the ~~California~~ *Department of* Technology ~~Agency~~, a summary of its actual and projected information technology and telecommunications costs, including personnel, for the immediately preceding fiscal year and current fiscal year, showing current expenses and projected expenses for the current fiscal year, in a format prescribed by the ~~California~~ *Department of* Technology ~~Agency~~ in order to capture statewide information technology expenditures.

SEC. 268. Section 11546.3 of the Government Code is amended to read:

11546.3. (a) (1) A chief information officer appointed under Section 11546.1 shall develop a plan to leverage cost-effective strategies to reduce the total amount of energy utilized by information technology and telecommunications equipment of the officer's agency or entity, as the case may be, in support of the statewide effort to reduce energy consumption by 20 percent below the 2009 baseline by July 1, 2011, and by 30 percent below the 2009 baseline by July 1, 2012.

(2) A chief information officer appointed under Section 11546.1 shall report the progress toward the energy reduction targets in paragraph (1) to the ~~California~~ *Department of* Technology ~~Agency~~ on a quarterly basis beginning in January 2011. The ~~California~~ *Department of* Technology ~~Agency~~ shall include the quarterly reports on its Internet Web site.

(b) (1) A state agency or entity subject to Section 11546.1 shall do all of the following:

(A) Comply with the policies of the ~~California~~ *Department of* Technology ~~Agency~~ to reduce the total amount of office square footage currently utilized for data centers by the agency or entity, as the case may be, in support of the statewide effort to reduce

energy consumption by 50 percent below the 2009 baseline by July 2011.

(B) Host all mission critical and public-facing applications and server refreshes in a Tier III or equivalent data center, as designated by the ~~California~~ *Department of* Technology ~~Agency~~.

(C) Close any existing data centers or server rooms that house nonnetwork equipment by June 2013. On or before July 2011, transition plans, in accordance with guidance provided by the ~~California~~ *Department of* Technology ~~Agency~~, shall be submitted to the ~~California~~ *Department of* Technology ~~Agency~~.

(D) Be in migration from its existing network services to the California Government Network by no later than July 2011.

(E) Report to the ~~California~~ *Department of* Technology ~~Agency~~ on the progress toward the targets listed in this subdivision on a quarterly basis, beginning in January 2011.

(2) The ~~California~~ *Department of* Technology ~~Agency~~ shall include the quarterly reports required by subparagraph (E) of paragraph (1) on its Internet Web site.

(c) (1) A state agency or entity subject to Section 11546.1 shall do both of the following:

(A) Be in migration to the state shared e-mail solution by no later than June 2011.

(B) Report to the ~~California~~ *Department of* Technology ~~Agency~~ on the progress toward the target listed in subparagraph (A) on a quarterly basis, beginning in April 2011.

(2) The ~~California~~ *Department of* Technology ~~Agency~~ shall include the quarterly reports required by subparagraph (B) of paragraph (1) on its Internet Web site.

SEC. 269. Section 11546.4 of the Government Code is amended to read:

11546.4. Notwithstanding any other law, any service contract proposed to be entered into by an agency that would not otherwise be subject to review, approval, or oversight by the ~~office~~ *Department* of ~~the State Chief Information Officer~~ *Technology* but that contains an information technology component that would be subject to oversight by the ~~office~~ *Department* of ~~the State Chief Information Officer~~ *Technology* if it was a separate information technology project, shall be subject to review, approval, and oversight by the ~~office~~ *Department* of ~~the State Chief Information Officer~~ *Technology* as set forth in Section 11546.

SEC. 270. Section 11546.5 of the Government Code is amended to read:

11546.5. Notwithstanding any other ~~provision of~~ law, all employees of the ~~California~~ *Department of* Technology ~~Agency~~ shall be designated as excluded from collective bargaining pursuant to subdivision (b) of Section 3527, except for employees of the Office of Technology Services and employees of the Public Safety Communications Division who are not otherwise excluded from collective bargaining.

SEC. 271. Section 11546.6 of the Government Code is amended to read:

11546.6. (a) The ~~State Chief Information Officer~~ *Director of Technology* shall require fingerprint images and associated information from an employee, prospective employee, contractor, subcontractor, volunteer, or vendor whose duties include, or would include, working on data center, telecommunications, or network operations, engineering, or security with access to confidential or sensitive information and data on the network or computing infrastructure.

(b) The fingerprint images and associated information described in subdivision (a) shall be furnished to the Department of Justice for the purpose of obtaining information as to the existence and nature of any of the following:

(1) A record of state or federal convictions and the existence and nature of state or federal arrests for which the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) Being convicted of, or pleading nolo contendere to, a crime, or having committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person employed by the state in accordance with this provision.

(3) Any conviction or arrest, for which the person is free on bail or on his or her own recognizance pending trial or appeal, with a reasonable nexus to the information or data to which the employee shall have access.

(c) Requests for federal criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice.

(d) The Department of Justice shall respond to the ~~State Chief Information Officer~~ *Director of Technology* with information as provided under subdivision (p) of Section 11105 of the Penal Code.

(e) The ~~State Chief Information Officer~~ *Director of Technology* shall request subsequent arrest notifications from the Department of Justice as provided under Section 11105.2 of the Penal Code.

(f) The Department of Justice may assess a fee sufficient to cover the processing costs required under this section, as authorized pursuant to subdivision (e) of Section 11105 of the Penal Code.

(g) If an individual described in subdivision (a) is rejected as a result of information contained in the Department of Justice or Federal Bureau of Investigation criminal offender record information response, the individual shall receive a copy of the response record from the ~~State Chief Information Officer~~ *Director of Technology*.

(h) The ~~State Chief Information Officer~~ *Director of Technology* shall develop a written appeal process for an individual described in subdivision (a) who is determined ineligible for employment because of his or her Department of Justice or Federal Bureau of Investigation criminal offender record. Individuals shall not be found to be ineligible for employment pursuant to this section until the appeal process is in place.

(i) When considering the background information received pursuant to this section, the ~~State Chief Information Officer~~ *Director of Technology* shall take under consideration any evidence of rehabilitation, including participation in treatment programs, as well as the age and specifics of the offense.

SEC. 272. Section 11549 of the Government Code is amended to read:

11549. (a) There is in state government, in the ~~California~~ *Department of* Technology ~~Agency~~, the Office of Information Security. The purpose of the Office of Information Security is to ensure the confidentiality, integrity, and availability of state systems and applications, and to promote and protect privacy as part of the development and operations of state systems and applications to ensure the trust of the residents of this state.

(b) The office shall be under the direction of a director, who shall be appointed by, and serve at the pleasure of, the Governor. The director shall report to the ~~Secretary~~ *Director* of ~~California~~

Technology, and shall lead the Office of Information Security in carrying out its mission.

(c) The duties of the Office of Information Security, under the direction of the director, shall be to provide direction for information security and privacy to state government agencies, departments, and offices, pursuant to Section 11549.3.

(d) (1) Unless the context clearly requires otherwise, whenever the term "Office of Information Security and Privacy Protection" appears in any statute, regulation, or contract, it shall be deemed to refer to the Office of Information Security, and whenever the term "executive director of the Office of Information Security and Privacy Protection" appears in statute, regulation, or contract, it shall be deemed to refer to the Director of the Office of Information Security.

(2) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred from the Office of Information Security and Privacy Protection to the Office of Information Security, are transferred to the Office of Information Security. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the Office of Information Security.

(3) The property of any office, agency, or department related to functions transferred to the Office of Information Security is transferred to the Office of Information Security. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(4) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the Office of Information Security shall be transferred to the Office of Information Security for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 273. Section 11549.3 of the Government Code is amended to read:

11549.3. (a) The director shall establish an information security program. The program responsibilities include, but are not limited to, all of the following:

(1) The creation, updating, and publishing of information security and privacy policies, standards, and procedures for state agencies in the State Administrative Manual.

(2) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies to effectively manage security and risk for all of the following:

(A) Information technology, which includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(B) Information that is identified as mission critical, confidential, sensitive, or personal, as defined and published by the ~~office~~ *Office of Information Security*.

(3) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies for the collection, tracking, and reporting of information regarding security and privacy incidents.

(4) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies in the development, maintenance, testing, and filing of each agency's disaster recovery plan.

(5) Coordination of the activities of agency information security officers, for purposes of integrating statewide security initiatives and ensuring compliance with information security and privacy policies and standards.

(6) Promotion and enhancement of the state agencies' risk management and privacy programs through education, awareness, collaboration, and consultation.

(7) Representing the state before the federal government, other state agencies, local government entities, and private industry on issues that have statewide impact on information security and privacy.

(b) An information security officer appointed pursuant to Section 11546.1 shall implement the policies and procedures issued by the Office of Information Security, including, but not limited to, performing all of the following duties:

(1) Comply with the information security and privacy policies, standards, and procedures issued pursuant to this chapter by the Office of Information Security.

(2) Comply with filing requirements and incident notification by providing timely information and reports as required by policy or directives of the office.

(c) The office may conduct, or require to be conducted, independent security assessments of any state agency, department, or office, the cost of which shall be funded by the state agency, department, or office being assessed.

(d) The office may require an audit of information security to ensure program compliance, the cost of which shall be funded by the state agency, department, or office being audited.

(e) The office shall report to the ~~California~~ *Department of* Technology ~~Agency~~ any state agency found to be noncompliant with information security program requirements.

SEC. 274. Section 11549.4 of the Government Code is amended to read:

11549.4. The office shall consult with the ~~State Chief Information Officer~~ *Director of Technology*, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Director of General Services, the Director of Finance, and any other relevant agencies concerning policies, standards, and procedures related to information security and privacy.

SEC. 275. Section 11552 of the Government Code is amended to read:

11552. (a) Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars ($85,402) shall be paid to each of the following:

(1) Commissioner of ~~Financial Institutions.~~ *Business Oversight.*

~~(2) Commissioner of Corporations.~~

~~(3)~~

(2) Director of Transportation.

~~(4)~~

(3) Real Estate Commissioner.

~~(5)~~

(4) Director of Social Services.
~~(6)~~
(5) Director of Water Resources.
~~(7)~~
(6) Director of General Services.
~~(8)~~
(7) Director of Motor Vehicles.
~~(9)~~
(8) Executive Officer of the Franchise Tax Board.
~~(10)~~
(9) Director of Employment Development.
~~(11)~~
(10) Director of Alcoholic Beverage Control.
~~(12)~~
(11) Director of Housing and Community Development.
~~(13)~~
(12) Director of Alcohol and Drug Programs.
~~(14)~~
(13) Director of Statewide Health Planning and Development.
~~(15)~~
(14) Director of the Department of ~~Personnel Administration~~ *Human Resources*.
~~(16)~~
(15) Director of Health Care Services.
~~(17)~~
(16) Director of ~~Mental Health~~ *State Hospitals*.
~~(18)~~
(17) Director of Developmental Services.
~~(19)~~
(18) State Public Defender.
~~(20)~~
(19) Director of the California State Lottery.
~~(21)~~
(20) Director of Fish and ~~Game~~ *Wildlife*.
~~(22)~~
(21) Director of Parks and Recreation.
~~(23)~~
(22) Director of Rehabilitation.
~~(24)~~
(23) Director of the Office of Administrative Law.

~~(25)~~

(24) Director of Consumer Affairs.

~~(26)~~

(25) Director of Forestry and Fire Protection.

~~(27)~~

(26) The Inspector General pursuant to Section 6125 of the Penal Code.

~~(28)~~

(27) Director of Child Support Services.

~~(29)~~

(28) Director of Industrial Relations.

~~(30)~~

(29) Director of Toxic Substances Control.

~~(31)~~

(30) Director of Pesticide Regulation.

~~(32)~~

(31) Director of Managed Health Care.

~~(33)~~

(32) Director of Environmental Health Hazard Assessment.

~~(34) Director of Technology.~~

~~(35)~~

(33) Director of California Bay-Delta Authority.

~~(36)~~

(34) Director of California Conservation Corps.

(35) Director of Technology.

(36) Director of Emergency Services.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 276. Section 12012.90 of the Government Code is amended to read:

12012.90. (a) (1) For each fiscal year commencing with the 2002–03 fiscal year to the ~~2004-05~~ *2004–05* fiscal year, inclusive, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect

as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars ($1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars ($275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, "eligible recipient Indian tribe" means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars ($275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe

was eligible to receive a distribution during the fiscal year immediately preceding.

(e) For each fiscal year commencing with the ~~2005-06~~ *2005–06* fiscal year, all of the following shall apply and subdivisions (b) to (d), inclusive, shall not apply:

(1) On or before the day of the May budget revision for each fiscal year, the California Gambling Control Commission shall determine the anticipated total amount of shortfalls in payment likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the upcoming fiscal year, and shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year. The anticipated total amount of shortfalls to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund shall be determined by the California Gambling Control Commission as follows:

(A) The anticipated number of eligible recipient tribes that will be eligible to receive payments for the next fiscal year, multiplied by one million one hundred thousand dollars ($1,100,000), with that product reduced by the amount anticipated to be paid by the tribes directly into the Indian Gaming Revenue Sharing Trust Fund for the fiscal year.

(B) This amount shall be based upon actual payments received into the Indian Gaming Revenue Sharing Trust Fund the previous fiscal year, with adjustments made due to amendments to existing tribal-state compacts or newly executed tribal-state compacts with respect to payments to be made to the Indian Gaming Revenue Sharing Trust Fund.

(2) The Legislature shall transfer from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund an amount sufficient for each eligible recipient tribe to receive a total not to exceed two hundred seventy-five thousand dollars ($275,000) for each quarter in the upcoming fiscal year an eligible recipient tribe is eligible to receive moneys, for a total not to exceed one million, one hundred thousand dollars ($1,100,000) for the entire fiscal year. The California Gambling Control Commission shall make quarterly payments from the Indian

Gaming Revenue Sharing Trust Fund to each eligible recipient Indian tribe within 45 days of the end of each fiscal quarter.

(3) If the transfer of funds from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Revenue Sharing Trust Fund.

(4) In the event the amount appropriated for the fiscal year is insufficient to ensure each eligible recipient tribe receives the total of two hundred seventy-five thousand dollars ($275,000) for each fiscal quarter, the Department of Finance, after consultation with the California Gambling Control Commission, shall submit to the Legislature a request for a budget augmentation for the current fiscal year with an explanation as to the reason why the amount appropriated for the fiscal year was insufficient.

(5) At the end of each fiscal quarter, the California Gambling Control Commission's Indian Gaming Revenue Sharing Trust Fund report shall include information that identifies each of the eligible recipient tribes eligible to receive a distribution for that fiscal quarter, the amount paid into the Indian Gaming Revenue Sharing Trust Fund by each of the tribes pursuant to the applicable sections of the tribal-state compact, and the amount necessary to backfill from the Indian Gaming Special Distribution Fund the shortfall in the Indian Gaming Revenue Sharing Trust Fund in order for each eligible recipient tribe to receive the total of two hundred seventy-five thousand dollars ($275,000) for the fiscal quarter.

~~(6) Based upon the projected shortfall in the Indian Gaming Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum of fifty million dollars ($50,000,000) is hereby transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and is hereby appropriated from that fund to the California Gambling Control Commission for distribution to each eligible recipient tribe pursuant to this section.~~

SEC. 277. Section 12463.1 of the Government Code is amended to read:

12463.1. (a) The Controller shall appoint an advisory committee consisting of seven local governmental officers to assist him or her in developing complete and adequate records.

(b) Whenever, in the opinion of the advisory committee and the Controller, the public welfare demands that the reports of the financial transactions of a district other than a school district be published, the Controller shall notify the district that reports of its financial transactions are required to be furnished to him or her pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5. A public entity, agency, board, transportation planning agency designated by the Secretary of ~~the Business, Transportation, and Housing Agency~~ *Transportation* pursuant to Section 29532, or commission provided for by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, and a nonprofit corporation as defined in subdivision (d), shall be deemed a district within the meaning of this section. The Controller shall compile and publish these reports pursuant to Section 12463.

(c) The Controller shall make available annually, in a separate report, published in an electronic format on the Controller's Web site, certain financial information about selected special districts. The information provided in this report shall be published no later than June 30 following the end of the annual reporting period. This report may be included whenever the Controller publishes a report pursuant to this section. The Controller shall include in his or her report information that best illustrates the assets, liabilities, and equity of selected districts. Specifically, the Controller shall include in this report a breakdown of each special district's (1) fund balance, which shall include the reserved and unreserved funds, typical for a nonenterprise district; (2) retained earnings, which shall include the reserved and unreserved funds, typical for enterprise districts; (3) fixed assets; and (4) cash and investments. The Controller may also include separate line items for "total revenues" and "total expenditures." This report shall cover the 250 special districts with the largest total revenues for that reporting period. When the report is available, the Controller shall notify the Legislature, in writing, within one week of its publication.

(d) For purposes of this section, "nonprofit corporation" means any nonprofit corporation (1) formed in accordance with the provisions of a joint powers agreement to carry out functions

specified in the agreement; (2) that issued bonds, the interest on which is exempt from federal income taxes, for the purpose of purchasing land as a site for, or purchasing or constructing, a building, stadium, or other facility, that is subject to a lease or agreement with a local public entity; or (3) wholly owned by a public agency.

SEC. 278. Section 12803.2 is added to the Government Code, to read:

12803.2. (a) The Government Operations Agency shall consist of all of the following:

(1) The Office of Administrative Law.

(2) The Public Employees' Retirement System.

(3) The State Teachers' Retirement System.

(4) The State Personnel Board.

(5) The California Victim Compensation and Government Claims Board.

(6) The Department of General Services.

(7) The Department of Technology.

(8) The Franchise Tax Board.

(9) The Department of Human Resources.

(b) The Government Operations Agency shall be governed by the Secretary of Government Operations pursuant to Section 12801. However, the Director of Human Resources shall report directly to the Governor on issues relating to labor relations.

SEC. 279. Section 12804.7 of the Government Code is amended to read:

12804.7. The ~~State and Consumer Services~~ *Natural Resources* Agency succeeds to and is vested with all the duties, powers, purposes, and responsibilities, and jurisdiction vested in the Department of Food and Agriculture by Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code with respect to the ~~Museum of Science and Industry~~ *Exposition Park.*

SEC. 280. Section 12813.5 is added to the Government Code, to read:

12813.5. The Public Employment Relations Board is in the Labor and Workforce Development Agency.

SEC. 281. Section 13901 of the Government Code is amended to read:

13901. (a) There is within the ~~State and Consumer Services~~ *Government Operations* Agency the California Victim Compensation and Government Claims Board.

(b) The board consists of the Secretary of ~~State and Consumer Services~~ *Government Operations* or his or her designee and the Controller, both acting ex officio, and a third member who shall be appointed by and serve at the pleasure of the Governor. The third member may be a state officer who shall act ex officio.

(c) Any reference in statute or regulation to the State Board of Control shall be construed to refer to the California Victim Compensation and Government Claims Board.

SEC. 282. Section 13903 of the Government Code is amended to read:

13903. The Secretary of ~~the State and Consumer Services Agency~~ *Government Operations* shall serve as chair of the board.

SEC. 283. Section 13975 of the Government Code is repealed.

~~13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the State Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.~~

SEC. 284. Section 13975 is added to the Government Code, to read:

13975. There is in the state government the Transportation Agency. The agency consists of the Department of the California Highway Patrol, the California Transportation Commission, the Department of Motor Vehicles, the Department of Transportation, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

SEC. 285. Section 13975.1 of the Government Code is amended to read:

13975.1. (a) This section applies to every action brought in the name of the people of the State of California by the Commissioner of ~~Corporations~~ *Business Oversight* before, on, or after the effective date of this section, when enforcing provisions of those laws administered by the Commissioner of ~~Corporations~~ *Business Oversight* which authorize the Commissioner of ~~Corporations~~ *Business Oversight* to seek a permanent or preliminary injunction, restraining order, or writ of mandate, or the appointment of a receiver, monitor, conservator, or other designated fiduciary or officer of the court, *except actions brought against any of the licensees specified in subparagraphs (1) through (8), inclusive, of subdivision (b) of Section 300 of the Financial Code that are governed by other law*. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate. The court may order that the expenses and fees of the receiver, monitor, conservator, or other designated fiduciary or officer of the court, be paid from the property held by the receiver, monitor, conservator, or other court designated fiduciary or officer, but neither the state, the ~~Business, Transportation, and Housing~~ *Business, Consumer Services and Housing* Agency, nor the Department of ~~Corporations~~ *Business Oversight* shall be liable for any of those expenses and fees, unless expressly provided for by written contract.

(b) The receiver, monitor, conservator, or other designated fiduciary or officer of the court may do any of the following subject to the direction of the court:

(1) Sue for, collect, receive, and take into possession all the real and personal property derived by any unlawful means, including property with which that property or the proceeds thereof has been commingled if that property or the proceeds thereof cannot be identified in kind because of the commingling.

(2) Take possession of all books, records, and documents relating to any unlawfully obtained property and the proceeds thereof. In addition, they shall have the same right as a defendant to request, obtain, inspect, copy, and obtain copies of books, records, and documents maintained by third parties that relate to unlawfully obtained property and the proceeds thereof.

(3) Transfer, encumber, manage, control, and hold all property subject to the receivership, including the proceeds thereof, in the manner directed or ratified by the court.

(4) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof to any person who committed, aided or abetted, or participated in the commission of unlawful acts or who had knowledge that the property had been unlawfully obtained.

(5) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof made with the intent to hinder or delay the recovery of that property or any interest in it by the receiver or any person from whom the property was unlawfully obtained.

(6) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof that was made within one year before the date of the entry of the receivership order if less than a reasonably equivalent value was given in exchange for the transfer, except that a bona fide transferee for value and without notice that the property had been unlawfully obtained may retain the interest transferred until the value given in exchange for the transfer is returned to the transferee.

(7) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof made within 90 days before the date of the entry of the receivership order to a transferee from whom the defendant unlawfully obtained some property if (A) the receiver establishes that the avoidance of the transfer will promote a fair pro rata distribution of restitution among all people from whom defendants unlawfully obtained property and (B) the transferee cannot establish that the specific property transferred was the same property which had been unlawfully obtained from the transferee.

(8) Exercise any power authorized by statute or ordered by the court.

(c) No person with actual or constructive notice of the receivership shall interfere with the discharge of the receiver's duties.

(d) No person may file any action or enforce or create any lien, or cause to be issued, served, or levied any summons, subpoena, attachment, or writ of execution against the receiver or any property subject to the receivership without first obtaining prior court

approval upon motion with notice to the receiver and the Commissioner of ~~Corporations~~ *Business Oversight*. Any legal procedure described in this subdivision commenced without prior court approval is void except as to a bona fide purchaser or encumbrancer for value and without notice of the receivership. No person without notice of the receivership shall incur any liability for commencing or maintaining any legal procedure described by this subdivision.

(e) The court has jurisdiction of all questions arising in the receivership proceedings and may make any orders and judgments as may be required, including orders after noticed motion by the receiver to avoid transfers as provided in paragraphs (4), (5), (6), and (7) of subdivision (b).

(f) This section is cumulative to all other provisions of law.

(g) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(h) The recordation of a copy of the receivership order imparts constructive notice of the receivership in connection with any matter involving real property located in the county in which the receivership order is recorded.

SEC. 286. Section 13976 of the Government Code is amended to read:

13976. The agency is under the supervision of an executive officer known as the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*. He *or she* shall be appointed by the Governor, subject to confirmation by the Senate, and shall hold office at the pleasure of the Governor.

The annual salary of the secretary is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of this code.

As used in this part, "agency" and "secretary" refer to the ~~Business, Transportation and Housing Agency~~ *Transportation Agency* and the Secretary of ~~the Business, Transportation and Housing Agency,~~ *Transportation*, respectively, unless the context otherwise requires.

SEC. 287. Section 13978.2 of the Government Code is amended to read:

13978.2. The Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation* shall advise the Governor on, and assist the Governor in establishing, major policy and program matters affecting each department, office, or other unit within the agency, and shall serve as the principal communication link for the effective transmission of policy problems and decisions between the Governor and each such department, office, or other unit.

SEC. 288. Section 13978.4 of the Government Code is amended to read:

13978.4. The Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation* shall exercise the authority vested in the Governor in respect to the functions of each department, office, or other unit within the agency, including the adjudication of conflicts between or among the departments, offices, or other units; and shall represent the Governor in coordinating the activities of each such department, office, or other unit with those of other agencies, federal, state, or local.

SEC. 289. Section 13984 of the Government Code is amended to read:

13984. In order to ensure that Section 10240.3 of the Business and Professions Code and Sections ~~215.5,~~ *327*, 22171, and 50333 of the Financial Code are applied consistently to all California entities engaged in the brokering, originating, servicing, underwriting, and issuance of nontraditional mortgage products, the secretary shall ensure that the ~~Commissioner~~ *Director of Consumer Affairs or the Commissioner* of Real Estate~~, the Commissioner of Financial Institutions,~~ and the Commissioner of ~~Corporations~~ *Business Oversight* coordinate their policymaking and rulemaking efforts.

SEC. 290. Section 13995.20 of the Government Code, as amended by Section 2 of Chapter 790 of the Statutes of 2006, is amended to read:

13995.20. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Appointed commissioner" means a commissioner appointed by the Governor pursuant to paragraph (2) of subdivision (b) of Section 13995.40.

(b) "Assessed business" means a person required to pay an assessment pursuant to this chapter, and until the first assessment

is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation's board of directors is appointed by a public official or public entity, or serves on the corporation's board of directors by virtue of being elected to public office, or both.

(c) "Commission" means the California Travel and Tourism Commission.

(d) "Director" means the Director of the Governor's Office of Business and Economic Development.

~~(d)~~

(e) "Elected commissioner" means a commissioner elected pursuant to subdivision (d) of Section 13995.40.

~~(e)~~

(f) "Industry category" means the following classifications within the tourism industry:

(1) Accommodations.

(2) Restaurants and retail.

(3) Attractions and recreation.

(4) Transportation and travel services.

~~(f)~~

(g) "Industry segment" means a portion of an industry category. For example, rental cars are an industry segment of the transportation and travel services industry category.

~~(g)~~

(h) "Office" means the Office of Tourism, also popularly referred to as the Division of Tourism, within the ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development*.

~~(h)~~

(i) "Person" means an individual, public entity, firm, corporation, association, or any other business unit, whether operating on a for-profit or nonprofit basis.

~~(i)~~

(j) "Referendum" means any vote by mailed ballot of measures recommended by the commission and approved by the ~~secretary~~ *director* pursuant to Section 13995.60, except for the initial referendum, which shall consist of measures contained in the selection committee report, discussed in Section 13995.30.

~~(j) "Secretary" means the Secretary of Business, Transportation and Housing.~~

(k) "Selection committee" means the Tourism Selection Committee described in Article 3 (commencing with Section 13995.30).

~~(*l*) This section shall become inoperative on the date the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied, and if the secretary provides those notices, this section is repealed as of January 1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.~~

SEC. 291. Section 13995.30 of the Government Code is amended to read:

13995.30. (a) The Governor shall appoint a Tourism Selection Committee based upon recommendations from established industry associations. The committee shall consist of 25 representatives, with no fewer than six from each industry category. In selecting the representatives, the Governor shall, to the extent possible, give recognition to the diversity within each industry category. The committee shall select a chairperson from among its members. The office shall provide staffing for the committee.

(b) The selection committee shall convene on or before March 1, 1996. Not later than 150 days following the initial convening of the committee, the committee shall issue a report listing the following:

(1) Industry segments that will be included in the initial referendum.

(2) The target assessment level for the initial referendum.

(3) Percentage of funds to be levied against each industry category and segment. To the extent possible, the percentages shall be based upon quantifiable industry data, and amounts to be levied against industry segments shall bear an appropriate relationship to the benefit derived from travel and tourism by those industry segments.

(4) Assessment methodology and rate of assessment within each industry segment, that may include, but is not limited to, a percentage of gross revenue or a per transaction charge.

(5) Businesses, if any, within a segment to be assessed at a reduced rate, which may be set at zero, whether temporarily or permanently.

(6) Initial slate of proposed elected commissioners. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(c) Nothing in this section shall preclude the selection committee from setting the assessment rate for a business within a segment at a lower rate, which may be set at zero, than a rate applicable to other businesses within that segment if the selection committee makes specific findings that the lower rate should apply due to unique geographical, financial, or other circumstances affecting the business. No business for which a zero assessment rate is set pursuant to this subdivision shall be sent a ballot or entitled to participate in the initial referendum, or in any subsequent referendum in which its rate of assessment is set at zero.

(d) The committee members for each industry category, also referred to as a subcommittee, shall prepare a recommendation for the entire committee on how the items specified in subdivision (b) should be determined for the industry segments within their industry category. The recommendations shall not include a discussion of industry category levies, which shall be determined solely by the committee. In the event that the subcommittee cannot agree on one or more of the items specified in subdivision (b), no recommendation shall be given in that category. The recommendations shall be presented to the full committee, which shall address each of the items contained in subdivision (b).

(e) In order to be assessed, an industry segment must be defined with sufficient clarity to allow for the cost-effective identification of assessed businesses within that segment.

(f) It shall be the responsibility of the office to advertise widely the selection committee process and to schedule public meetings for potential assessed businesses to provide input to the selection committee.

(g) The recommendations developed by the committee pursuant to subdivision (b) shall be reviewed and approved by the ~~secretary~~ *director*.

(h) The selection committee process and report are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

SEC. 292. Section 13995.40 of the Government Code is amended to read:

13995.40. (a) Upon approval of the initial referendum, the office shall establish a nonprofit mutual benefit corporation named the California Travel and Tourism Commission. The commission shall be under the direction of a board of commissioners, which shall function as the board of directors for purposes of the Nonprofit Corporation Law.

(b) The board of commissioners shall consist of 37 commissioners comprising the following:

(1) The ~~secretary~~ *director*, who shall serve as chairperson.

(2) (A) Twelve members, who are professionally active in the tourism industry, and whose primary business, trade, or profession is directly related to the tourism industry, shall be appointed by the Governor. Each appointed commissioner shall represent only one of the 12 tourism regions designated by the office, and the appointed commissioners shall be selected so as to represent, to the greatest extent possible, the diverse elements of the tourism industry. Appointed commissioners are not limited to individuals who are employed by or represent assessed businesses.

(B) If an appointed commissioner ceases to be professionally active in the tourism industry or his or her primary business, trade, or profession ceases to be directly related to the tourism industry, he or she shall automatically cease to be an appointed commissioner 90 days following the date on which he or she ceases to meet both of the eligibility criteria specified in subparagraph (A), unless the commissioner becomes eligible again within that 90-day period.

(3) Twenty-four elected commissioners, including at least one representative of a travel agency or tour operator that is an assessed business.

(c) The commission established pursuant to Section 15364.52 shall be inoperative so long as the commission established pursuant to this section is in existence.

(d) Elected commissioners shall be elected by industry category in a referendum. Regardless of the number of ballots received for a referendum, the nominee for each commissioner slot with the

most weighted votes from assessed businesses within that industry category shall be elected commissioner. In the event that an elected commissioner resigns, dies, or is removed from office during his or her term, the commission shall appoint a replacement from the same industry category that the commissioner in question represented, and that commissioner shall fill the remaining term of the commissioner in question. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(e) The ~~secretary~~ *director* may remove any elected commissioner following a hearing at which the commissioner is found guilty of abuse of office or moral turpitude.

(f) (1) The term of each elected commissioner shall commence July 1 of the year next following his or her election, and shall expire on June 30 of the fourth year following his or her election. If an elected commissioner ceases to be employed by or with an assessed business in the category and segment which he or she was representing, his or her term as an elected commissioner shall automatically terminate 90 days following the date on which he or she ceases to be so employed, unless, within that 90-day period, the commissioner again is employed by or with an assessed business in the same category and segment.

(2) Terms of elected commissioners that would otherwise expire effective December 31 of the year during which legislation adding this subdivision is enacted shall automatically be extended until June 30 of the following year.

(g) With the exception of the ~~secretary~~ *director*, no commissioner shall serve for more than two consecutive terms. For purposes of this subdivision, the phrase “two consecutive terms” shall not include partial terms.

(h) Except for the original commissioners, all commissioners shall serve four-year terms. One-half of the commissioners originally appointed or elected shall serve a two-year term, while the remainder shall serve a four-year term. Every two years thereafter, one-half of the commissioners shall be appointed or elected by referendum.

(i) The selection committee shall determine the initial slate of candidates for elected commissioners. Thereafter the commissioners, by adopted resolution, shall nominate a slate of

candidates, and shall include any additional candidates complying with the procedure described in Section 13995.62.

(j) The commissioners shall elect a vice chairperson from the elected commissioners.

(k) The commission may lease space from the office.

(*l*) The commission and the office shall be the official state representatives of California tourism.

(m) All commission meetings shall be held in California.

(n) No person shall receive compensation for serving as a commissioner, but each commissioner shall receive reimbursement for reasonable expenses incurred while on authorized commission business.

(o) Assessed businesses shall vote only for commissioners representing their industry category.

(p) Commissioners shall comply with the requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)). The Legislature finds and declares that commissioners appointed or elected on the basis of membership in a particular tourism segment are appointed or elected to represent and serve the economic interests of those tourism segments and that the economic interests of these members are the same as those of the public generally.

(q) Commission meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1).

(r) The executive director of the commission shall serve as secretary to the commission, a nonvoting position, and shall keep the minutes and records of all commission meetings.

SEC. 293. Section 13995.42 of the Government Code is amended to read:

13995.42. (a) The commission is a separate, independent California nonprofit mutual benefit corporation. Except as provided in Section 13995.43, the staff of the commission shall be employees solely of the commission, and the procedures adopted by the commission shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(b) Not later than six months following the initial referendum, the commission shall adopt procedures concerning the operation of the commission in order to provide due process rights for assessed businesses.

(c) In the event that the commission fails to adopt the procedures described in subdivision (b) within the specified timeframe, the ~~secretary~~ *director* shall adopt procedures for use by the commission until the commission adopts its own procedures. These procedures shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1), whether adopted by the commission or ~~secretary~~ *director*.

SEC. 294. Section 13995.43 of the Government Code is amended to read:

13995.43. (a) The commission shall be administered by an executive director. That individual shall be a tourism industry marketing professional, recommended by a vote of the commissioners and approved by the Governor. The executive director shall serve at the pleasure of both the commissioners and the Governor.

(b) The executive director shall report to and receive overall guidance from the commission, and shall implement the commission's tourism marketing plan. The executive director shall report to the ~~secretary~~ *director* for day-to-day managerial and financial responsibilities.

(c) The executive director shall serve ~~simultaneously~~ as the director of the office~~, with the title of Deputy Secretary of Tourism of the Business, Transportation and Housing Agency,~~ and ~~that individual~~ shall be an exempt employee, employed by the state. ~~So long as the commission is in existence, the only director of the office shall be the executive director of the commission.~~ Notwithstanding any other provision of law, the executive director may supervise both employees of the commission and employees of the office, notwithstanding the fact that the commission employees are employees solely of the commission.

(d) The salary and benefits of the executive director shall be determined by the commission, and approved by the ~~secretary~~ *director*, based upon industry standards for a director of a marketing budget of similar size. The entire salary and all benefits of the executive director shall be paid from assessments.

SEC. 295. Section 13995.44 of the Government Code is amended to read:

13995.44. (a) (1) The commission shall annually provide to all assessed businesses a report on the activities and budget of the commission including, but not limited to, income and expenses,

the fund balance, a summary of the tourism marketing plan, and a report of progress in achieving the goals set forth in the plan. The portions of the report that pertain to the commission's income and expenses and the fund balance, as well as those other portions that the commission may from time to time deem appropriate, shall be audited by independent accountants retained by the commission for this purpose.

(2) The commission's annual budget shall be subject to the review and approval of the ~~secretary~~ *director*. However, any decision of the ~~secretary~~ *director* related to the budget may be overridden by a vote of three-fifths or more of the commissioners then in office.

(b) The commission shall maintain a report on the percentage assessment allocation between industry categories and industry segments. The report shall also specify the reasons and methodology used for the allocations. This report shall be updated every time the assessment allocations are amended. The report shall be made available to any assessed business.

SEC. 296. Section 13995.45 of the Government Code is amended to read:

13995.45. (a) The commission shall annually prepare, or cause to be prepared, a written marketing plan. In developing the plan, the commission shall utilize, as appropriate, the advice and recommendations of the industry marketing advisory committee or committees established pursuant to subdivision (a) of Section 13995.47. The commission may amend the plan at any commission meeting. All expenditures by the commission shall be consistent with the marketing plan.

(b) The plan shall promote travel to and within California, and shall include, but not be limited to, the following:

(1) An evaluation of the previous year's budget and activities.

(2) Review of California tourism trends, conditions, and opportunities.

(3) Target audiences for tourism marketing expenditures.

(4) Marketing strategies, objectives, and targets.

(5) Budget for the current year.

(c) Before final adoption of the plan, the commission shall provide each known destination marketing organization in California notice of the availability of the proposed marketing plan and suitable opportunity, which may include public meetings, to

review the plan and to comment upon it. The commission shall take into consideration any recommendations submitted by the destination marketing organizations, except that the final determination as to the nature, extent, and substance of the plan shall in all respects rest solely within the ultimate discretion of the commission, except as provided in subdivision (d).

(d) The final adoption of the plan shall be subject to the review and approval of the ~~secretary~~ *director*. However, any decision of the ~~secretary~~ *director* related to the plan may be overridden by a vote of three-fifths or more of the commissioners then in office.

SEC. 297. Section 13995.50 of the Government Code is amended to read:

13995.50. (a) The marketing of California tourism is hereby declared to be affected with the public interest. This chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(b) The police powers shall be used to collect assessments not paid by the deadlines established by the ~~secretary~~ *director*.

SEC. 298. Section 13995.51 of the Government Code is amended to read:

13995.51. (a) The following powers, and any other powers provided in this act, with the exception of the exercising of police powers and of that power enumerated in subdivision (b), shall be the responsibility of the ~~secretary~~ *director* and, when not exercised by the ~~secretary~~ *director*, may be exercised by the commission:

(1) Call referenda in accordance with the procedures set forth in Article 6 (commencing with Section 13995.60) and certify the results.

(2) Collect and deposit assessments.

(3) Exercise police powers.

(4) Pursue actions and penalties connected with assessments.

(b) Except as otherwise specified in this chapter, the ~~secretary~~ *director* shall have veto power over the actions of the commission, following consultation with the commission, only under the following circumstances:

(1) Travel and expense costs.

(2) Situations where the ~~secretary~~ *director* determines a conflict of interest exists, as defined by the Fair Political Practices Commission.

(3) The use of any state funds.

(4) Any contracts entered into between the commission and a commissioner.

SEC. 299. Section 13995.53 of the Government Code is amended to read:

13995.53. The ~~secretary~~ *director* may require any and all assessed businesses to maintain books and records that reflect their income or sales as reflected in the assessment, and to furnish the ~~secretary~~ *director* with any information that may, from ~~time-to-time~~ *time to time*, be requested by the ~~secretary~~ *director*, and to permit the inspection by the ~~secretary~~ *director* of portions of books and records that relate to the amount of assessment.

SEC. 300. Section 13995.54 of the Government Code is amended to read:

13995.54. Information pertaining to assessed businesses obtained by the ~~secretary~~ *director* pursuant to this chapter is confidential and shall not be disclosed except to a person with the right to obtain the information, any attorney hired by the ~~secretary~~ *director* who is employed to give legal advice upon it, or by court order. Information obtained by the ~~secretary~~ *director* in order to determine the assessment level for an assessed business is exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

SEC. 301. Section 13995.55 of the Government Code is amended to read:

13995.55. For the purpose of carrying out Section 13995.51, the ~~secretary~~ *director* may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

SEC. 302. Section 13995.56 of the Government Code is amended to read:

13995.56. A person shall not be excused from attending and testifying, or from producing documentary evidence, before the ~~secretary~~ *director* in obedience to the subpoena of the ~~secretary~~ *director* pursuant to the authority granted in Section 13995.55 on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, which is required of him or her may tend to incriminate the person or subject that person to a penalty. A natural person shall not, however, be prosecuted or subjected to any penalty on account of any transaction, matter, or thing

concerning which he or she may be required to testify, or produce evidence, documentary or otherwise, before the ~~secretary~~ *director* in obedience to a subpoena. A natural person testifying shall not, however, be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 303. Section 13995.60 of the Government Code, as added by Section 8 of Chapter 790 of the Statutes of 2006, is amended to read:

13995.60. (a) As used in this article and Article 7 (commencing with Section 13995.65), "assessment level" means the estimated gross dollar amount received by assessment from all assessed businesses on an annual basis, and "assessment formula" means the allocation method used within each industry segment (for example, percentage of gross revenue or percentage of transaction charges).

(b) Commencing on January 1, 2003, a referendum shall be called every two years, and the commission, by adopted resolution, shall determine the slate of individuals who will run for commissioner. The resolution shall also cover, but not be limited to, the proposed assessment level for each industry category, based upon specified assessment formulae, together with necessary information to enable each assessed business to determine what its individual assessment would be. Commencing with the referendum held in 2007 and every six years thereafter, the resolution shall also cover the termination or continuation of the commission. The resolution may also include an amended industry segment allocation formula and the percentage allocation of assessments between industry categories and segments. The commission may specify in the resolution that a special, lower assessment rate that was set pursuant to subdivision (c) of Section 13995.30 for a particular business will no longer apply due to changes in the unique circumstance that originally justified the lower rate. The resolution may include up to three possible assessment levels for each industry category, from which the assessed businesses will select one assessment level for each industry category by plurality weighted vote.

(c) The commission shall deliver to the ~~secretary~~ *director* the resolution described in subdivision (b). The ~~secretary~~ *director* shall call a referendum containing the information required by

subdivision (b) plus any additional matters complying with the procedures of subdivision (b) of Section 13995.62.

(d) When the ~~secretary~~ *director* calls a referendum, all assessed businesses shall be sent a ballot for the referendum. Every ballot that the ~~secretary~~ *director* receives by the ballot deadline shall be counted, utilizing the weighted formula adopted initially by the selection committee, and subsequently amended by referendum.

(e) If the commission's assessment level is significantly different from what was projected when the existing assessment formula was last approved by referendum, a majority of members, by weighted votes of an industry category, may petition for a referendum to change the assessment formula applicable to that industry category.

(f) If the referendum includes more than one possible assessment rate for each industry category, the rate with the plurality of weighted votes within a category shall be adopted.

(g) Notwithstanding any other provision of this section, if the commission delivers to the ~~secretary~~ *director* a resolution pertaining to any matter described in subdivision (b), the ~~secretary~~ *director* shall call a referendum at a time or times other than as specified in this section. Each referendum shall contain only those matters contained in the resolution.

(h) Notwithstanding any other provision of this section, the ~~secretary~~ *director* shall identify, to the extent reasonably feasible, those businesses that would become newly assessed due to a change in category, segment, threshold, or exemption status sought via referendum, and provide those businesses the opportunity to vote in that referendum.

(i) This section shall become operative only if the ~~Secretary of Business, Transportation and Housing~~ *Director of the Governor's Office of Business and Economic Department* provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 304. Section 13995.63 of the Government Code is amended to read:

13995.63. (a) Upon receipt of the resolution required by Section 13995.60, including any assessed business referendum request pursuant to subdivision (a) of Section 13995.52 or Section 13995.62, the ~~secretary~~ *director* shall establish a referendum period

not to exceed 60 days. If the ~~secretary~~ *director* determines that the referendum period so established does not provide sufficient time for the balloting, the ~~secretary~~ *director* may extend the referendum period not more than 15 additional days. At the close of the referendum period, the ~~secretary~~ *director* shall count and tabulate the ballots filed during the referendum period.

(b) The ~~secretary~~ *director* shall establish a deadline for adoption of the resolution described in subdivision (a). If the commission fails to meet this deadline, or if the adopted resolution fails to meet the requirements of this chapter, then assessed businesses may present a slate of candidates to the ~~secretary~~ *director* not later than 60 days following the deadline established for the commission resolution. A minimum of 10 percent of weighted voters shall sign the document presenting the slate.

(c) In the event that the ~~secretary~~ *director* does not receive a resolution required by Section 13995.60 from the commission by the deadline established pursuant to subdivision (b) or the resolution does not comply with the requirements of this chapter and the assessed businesses fail to present a slate pursuant to subdivision (b), then the ~~secretary~~ *director* shall select a slate of commissioners and this slate, added to any assessed business referendum requests pursuant to subdivision (a) of Section 13995.52 or Section 13995.62, shall constitute the items included in the referendum.

SEC. 305. Section 13995.64 of the Government Code is amended to read:

13995.64. (a) Each assessed business is entitled to a weighted vote in each referendum. In calculating weighted votes, each assessed business receives a vote equal to the relative assessment paid by that business. An assessed business paying nine hundred dollars ($900) in annual assessments has three times the weighted vote of a business paying three hundred dollars ($300). Weighted votes are used to determine all issues on the referendum. The initial referendum, and any referendum item to terminate the commission, must be approved by a majority of the weighted votes cast at the referendum. The amount of assessment and selection of commissioners is determined by the most weighted votes, whether or not there is a majority.

(b) For purposes of voting in any referendum, each assessed business is part of one industry category and one industry segment,

and for voting purposes only, a business with revenue in more than one industry category or industry segment shall only be included in the category and segment in which it earns the most gross revenue.

(c) Each assessed business is eligible to vote for each item on the referendum, except that an assessed business can only vote for commissioners representing its industry category, and industry segment formulae for its industry segment.

(d) A business is not eligible to vote unless it has paid all assessments and fines outstanding as of a date established by the ~~secretary~~ *director*.

SEC. 306. Section 13995.65 of the Government Code is amended to read:

13995.65. (a) Each industry category shall establish a committee to determine the following within its industry category: industry segments, assessment formula for each industry segment, and any types of business exempt from assessment. The initial segment committees shall consist of the subcommittee for that category as described in subdivision (d) of Section 13995.30. Following approval of the assessment by referendum, the committees shall be selected by the commission, based upon recommendations from the tourism industry. Committee members need not be commission members.

(b) The committee recommendations shall be presented to the commission or selection committee, as applicable. The selection committee may adopt a resolution specifying some or all of the items listed in subdivision (a), plus an allocation of the overall assessment among industry categories. The commission may adopt a resolution specifying one or more of the items listed in subdivision (a), plus an allocation of the proposed assessment. The selection committee and commission are not required to adopt the findings of any committee.

(c) The initial industry category and industry segment allocations shall be included in the selection committee report required by subdivision (b) of Section 13995.30. Changes to the industry segment allocation formula may be recommended to the commission by a segment committee at the biennial commission meeting scheduled to approve the referendum resolution pursuant to Section 13995.60. At the same meeting, the commission may amend the percentage allocations among industry categories. Any

item discussed in this section that is approved by resolution of the commission, except amendments to the percentage allocations among industry categories, shall be placed on the next referendum, and adopted if approved by the majority of weighted votes cast.

(d) Upon approval by referendum, the office shall mail an assessment bill to each assessed business. The ~~secretary~~ *director* shall determine how often assessments are collected, based upon available staffing resources. The ~~secretary~~ *director* may stagger the assessment collection throughout the year, and charge businesses a prorated amount of assessment because of the staggered assessment period. The ~~secretary~~ *director* and office shall not divulge the amount of assessment or weighted votes of any assessed businesses, except as part of an assessment action.

(e) An assessed business may appeal an assessment to the ~~secretary~~ *director* based upon the fact that the business does not meet the definition established for an assessed business within its industry segment or that the level of assessment is incorrect. An appeal brought under this subdivision shall be supported by substantial evidence submitted under penalty of perjury by affidavit or declaration as provided in Section 2015.5 of the Code of Civil Procedure. If the error is based upon failure of the business to provide the required information in a timely manner, the ~~secretary~~ *director* may impose a fee for reasonable costs incurred by the ~~secretary~~ *director* in correcting the assessment against the business as a condition of correcting the assessment.

(f) Notwithstanding any other provision of law, an assessed business may pass on some or all of the assessment to customers. An assessed business that is passing on the assessment may, but shall not be required to, separately identify or itemize the assessment on any document provided to a customer. Assessments levied pursuant to this chapter and passed on to customers are not part of gross receipts or gross revenue for any purpose, including the calculation of sales or use tax and income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.

(g) For purposes of calculating the assessment for a business with revenue in more than one industry category or industry segment, that business may elect to be assessed based on either of the following:

(1) The assessment methodology and rate of assessment applicable to each category or segment, respectively, as it relates to the revenue that it derives from that category or segment.

(2) With respect to its total revenue from all industry categories or segments, the assessment methodology and rate of assessment applicable to the revenue in the category and segment in which it earns the most gross revenue.

(h) (1) A person sharing common ownership, management, or control of more than one assessed business may elect to calculate, administer, and pay the assessment owed by each business by any of the following methods:

(A) Calculated on the basis of each individual business location.

(B) Calculated on the basis of each business, or each group of businesses, possessing a single federal employer identification number, regardless of the number of locations involved.

(C) Calculated on the basis of the average aggregate percentage of tourism-related gross revenue received by all of the person's businesses in a particular industry segment or industry category during the period in question, multiplied by the total aggregate tourism-related gross revenue received by all of the businesses, and then multiplied by the appropriate assessment formula. For example, if a person sharing common ownership, management, or control of more than one assessed business in the retail industry segment calculates that the average percentage of tourism-related gross revenue received by all of its locations equals 6 percent during the period in question, that person may multiply all of the gross revenue received from all of those locations by 6 percent, and then multiply that product by the applicable assessment formula.

(D) Calculated on any other basis authorized by the ~~secretary~~ *director*.

(2) Except as the ~~secretary~~ *director* may otherwise authorize, the methods in ~~subparagraphs~~ *subparagraph* (B), (C), or (D) *of paragraph (1)* shall not be used if the aggregate assessments paid would be less than the total assessment revenues that would be paid if the method in subparagraph (A) *of paragraph (1)* were used.

SEC. 307. Section 13995.68 of the Government Code is amended to read:

13995.68. (a) The ~~secretary~~ *director* shall establish a list of businesses to be assessed and the amount of assessment owed by each. The ~~secretary~~ *director* shall collect the assessment from all assessed businesses, and in collecting the assessment the ~~secretary~~ *director* may exercise the police powers and bring enforcement actions.

(b) Funds collected by the ~~secretary~~ *director* shall be deposited into the account of the commission. This account shall not be an account of the state government.

(c) Any costs relating to the collection of assessments incurred by the state shall be reimbursed by the commission.

SEC. 308. Section 13995.69 of the Government Code is amended to read:

13995.69. (a) The office shall develop a list of California businesses within each segment included within the report required by subdivision (b) of Section 13995.30, periodically updated. Other state agencies shall assist the office in obtaining the names and addresses of these businesses.

(b) The office shall mail to each business identified pursuant to subdivision (a) a form requesting information necessary to determine the assessment for that business. Any business failing to provide this information in a timely manner shall be assessed an amount determined by the ~~secretary~~ *director* to represent the upper assessment level for that segment.

(c) The office, in consultation with the commission, shall establish by regulation the procedure for assessment collection.

SEC. 309. Section 13995.71 of the Government Code is amended to read:

13995.71. Any assessment levied as provided in this chapter is a personal debt of every person so assessed and shall be due and payable to the ~~secretary~~ *director*. If any assessed person fails to pay any assessment, the ~~secretary~~ *director* may file a complaint against the person in a state court of competent jurisdiction for the collection of the assessment.

SEC. 310. Section 13995.72 of the Government Code is amended to read:

13995.72. If any assessed business that is duly assessed pursuant to this chapter fails to pay to the ~~secretary~~ *director* the assessed amount by the due date, the ~~secretary~~ *director* may add to the unpaid assessment an amount not to exceed 10 percent of

the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment. In addition to payment for the cost of enforcing a collection, the assessed business shall pay to the ~~secretary~~ *director* a penalty equivalent to the lesser of either the maximum amount authorized by Section 1 of Article XV of the California Constitution or 5 percent for each 30 days the assessment is unpaid, prorated over the days unpaid, commencing 30 days after the notice has been given to the assessed business of ~~his or her~~ *its* failure to pay the assessment on the date required, unless the ~~secretary~~ *director* determines, to his or her satisfaction, that the failure to pay is due to reasonable cause beyond the control of the assessed business.

SEC. 311. Section 13995.73 of the Government Code is amended to read:

13995.73. The ~~secretary~~ *director* may require assessed businesses to deposit with him or her in advance the following amounts:

(a) An amount for necessary expenses.

(b) An amount that shall not exceed 25 percent of the assessment to cover costs that are incurred prior to the receipt of sufficient funds from the assessment.

(c) The amount of any deposit that is required by the ~~secretary~~ *director* shall be based upon the estimated assessment for the assessed business.

SEC. 312. Section 13995.74 of the Government Code is amended to read:

13995.74. In lieu of requiring advance deposits pursuant to Section 13995.73, or in order generally to provide funds for defraying administrative expenses or the expenses of implementing the tourism marketing plan until the time that sufficient moneys are collected for this purpose from the payment of the assessments that are established pursuant to this chapter, the ~~secretary~~ *director* may receive and disburse for the express purposes contributions that are made by assessed businesses. If, however, collections from the payment of established assessments are sufficient to so warrant, the ~~secretary~~ *director* shall authorize the repayment of contributions, or authorize the application of the contributions to the assessment obligations of persons that made the contributions.

SEC. 313. Section 13995.75 of the Government Code is amended to read:

13995.75. Upon termination of the commission, any remaining funds that are not required by the ~~secretary~~ *director* to defray commission expenses shall be returned by the ~~secretary~~ *director* upon a pro rata basis, to all persons from whom the assessments were collected unless the ~~secretary~~ *director* finds that the amounts to be returned are so small as to make impractical the computation and remitting of the pro rata refund to the appropriate persons. If the ~~secretary~~ *director* makes a finding that returning the remaining funds would be impractical, he or she may use the moneys in the fund to defray the costs of the office.

SEC. 314. Section 13995.77 of the Government Code is amended to read:

13995.77. A business is exempt from the assessments provided for in this chapter if any of the following apply:

(a) The business is a travel agency or tour operator that derives less than 20 percent of its gross revenue annually from travel and tourism occurring within the state. A travel agency or tour operator that qualifies for this exemption may participate as an assessed business by paying an assessment calculated on the same basis applicable to other travel agencies or tour operators, respectively, and by filing a written request with the ~~secretary~~ *director* indicating its desire to be categorized as an assessed business.

(b) The business is a small business. For purposes of this section, "small business" means a business location with less than one million dollars ($1,000,000) in total California gross annual revenue from all sources. This threshold amount may be lowered, but never to less than five hundred thousand dollars ($500,000), by means of a referendum conducted pursuant to Section 13995.60; however, the ~~secretary~~ *director* may elect to forgo assessing a business for which the expense incurred in collecting the assessment is not commensurate with the assessment that would be collected.

(c) The assessments provided for in this chapter shall not apply to the revenue of regular route intrastate and interstate bus service: provided, however, that this subdivision shall not be deemed to exclude any revenue derived from bus service that is of a type that requires authority, whether in the form of a certificate of public convenience and necessity, or a permit, to operate as a charter-party carrier of passengers pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code.

(d) Any business exempted pursuant to this section may enter into a contract for voluntary assessments pursuant to Section 13995.49.

SEC. 315. Section 13995.82 of the Government Code is amended to read:

13995.82. (a) When the ~~secretary~~ *director* makes a determination that an assessment is deficient as to the payment due, the ~~secretary~~ *director* may determine the amount of the deficiency, including any applicable penalty, as provided in this chapter. After giving notice that a deficiency determination is proposed and an opportunity to file a report or provide supplemental information is provided, the ~~secretary~~ *director* may make one or more deficiency determinations of the amount due for any reporting period based on information in the ~~secretary's~~ *director's* possession. When an assessed business is discontinued, a deficiency determination may be made at anytime thereafter as to the liability arising out of the operation of that business.

(b) The ~~secretary~~ *director* shall give notice of the proposed deficiency determination and the notice of deficiency determination by mailing a copy of the deficiency to the assessed business at the current address for that business on file with the ~~secretary~~ *director*. The giving of notice is complete at the time of deposit in the United States mail. In lieu of mailing, a notice may be served personally by delivering it to the person to be served.

(c) Except in the case of fraud or failure to file required information, a notice of a deficiency determination shall be given within four years of the accrual of the deficiency.

(d) The person against whom a deficiency determination is made may petition the ~~secretary~~ *director* for redetermination within 30 days after the serving of the notice of deficiency determination. If a petition is not filed within 30 days, the deficiency determination shall become final.

(e) A petition for redetermination shall be in writing, state the specific grounds upon which it is based, and be supported by applicable records and declarations under penalty of perjury that the information supporting the petition is accurate and complete. If a petition for redetermination is duly filed, the ~~secretary~~ *director* shall reconsider the deficiency determination and may grant a hearing thereon. The ~~secretary~~ *director* shall, as soon as practicable, make an order on redetermination, which shall become final 30

days after service of notice of the order of redetermination upon the petitioner. The notice of the order shall be served in the same manner as the notice of the original deficiency determination.

(f) If any amount required to be paid pursuant to a deficiency determination or redetermination is not paid within the time specified in the notice thereof, the ~~secretary~~ *director* may, within four years thereafter, file in the Superior Court in the County of Sacramento, or the superior court in any other county, a certificate specifying the amount required to be paid, the name and address of the person liable as it appears on the records of the ~~secretary~~ *director*, and a request that judgment be entered against the person in that amount 30 days after the filing. Notice of the filing shall be given in the same manner as for the notice of deficiency determination. The court shall enter a judgment in conformance with the ~~secretary's~~ *director's* certificate 30 days after its filing, unless a petition for judicial review has been filed within the 30-day period.

(g) An abstract of the judgment, or a copy thereof, may be filed with the county recorder of any county. From the time of filing of the judgment, the amount of the judgment constitutes a lien upon all of the property in the county owned by the judgment debtor. The lien has the force, effect and priority of a judgment lien and shall continue for 10 years from the date of the judgment, unless sooner released or otherwise discharged. The lien imposed by this section is not valid insofar as personal property is concerned against a purchaser of value without actual knowledge of the lien.

(h) Execution shall issue upon the judgment upon request of the ~~secretary~~ *director* in the same manner as execution may issue upon other judgments, and sales shall be held under execution as prescribed in the Code of Civil Procedure.

(i) The person named in a notice of deficiency determination or redetermination may, within 30 days of the notice of filing with the superior court, file an action for judicial review thereof, as provided herein, in the Superior Court in the County of Sacramento or, with the ~~secretary's~~ *director's* consent, the superior court in any other county. As a condition of staying entry of judgment or granting other relief, the court shall require the filing of a corporate surety bond with the ~~secretary~~ *director* in the amount of the deficiency stated in the certificate. In any court proceeding, the certificate of the ~~secretary~~ *director* determining the deficiency

shall be prima facie evidence of the fee and the amount due and unpaid.

(j) The provisions of this section are supplemental to any other procedures for collection and imposition of fees and penalties provided by this chapter.

(k) In lieu of proceeding pursuant to this section, the ~~secretary~~ *director* may file a complaint for collection of unpaid assessments as provided by law.

SEC. 316. Section 13995.83 of the Government Code is amended to read:

13995.83. It is a violation of this chapter for any person to willfully render or furnish a false or fraudulent report, statement, or record that is required by the ~~secretary~~ *director* pursuant to any provision of this chapter.

SEC. 317. Section 13995.84 of the Government Code is amended to read:

13995.84. Any suit brought by the ~~secretary~~ *director* to enforce any provision of this chapter, or any regulation, or rule and regulation, that is issued by the ~~secretary~~ *director* shall provide that the defendant pay to the ~~secretary~~ *director* the costs that were incurred by the ~~secretary~~ *director* and by the commission in the prosecution of the action in the event the ~~secretary~~ *director* prevails in the action. Any money that is recovered shall reimburse the account or accounts used to pay the costs.

SEC. 318. Section 13995.102 of the Government Code is amended to read:

13995.102. (a) The Los Angeles County Board of Supervisors shall appoint the Los Angeles County Tourism Selection Committee to consist of persons, or principals of entities, from within the industry categories that are to be assessed, based upon recommendations from established industry associations and destination marketing organizations within Los Angeles County.

(b) The county selection committee shall consist of 24 representatives, with no fewer than three from each industry category. The county selection committee shall appoint a chair and any other officers it deems advisable.

(c) The county selection committee shall convene within 150 days after the effective date of this chapter. Not later than 150 days following the initial convening of the committee, the committee shall issue a report and recommendations listing the following:

(1) Industry segments that will be included in the initial referendum.

(2) Percentage of funds to be levied against each industry category and segment. To the extent possible, the percentages shall be based upon quantifiable industry data. Funds to be levied against businesses shall bear an appropriate relationship to the benefit derived from travel and tourism by those businesses.

(3) Assessment methodology and rate of assessment within each industry segment, that may include, but not be limited to, a percentage of gross revenue or a per transaction charge.

(4) Businesses, if any, within a segment to be assessed at a reduced rate, which may be set at zero, whether temporarily or permanently, because they do not sufficiently benefit from travel and tourism.

(5) Initial slate of proposed elected commissioners. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(d) Nothing in this section shall preclude the selection committee from setting the assessment rate for a business within a segment at a lower rate, which may be set at zero, than a rate applicable to other businesses within that segment if the selection committee makes specific findings that the lower rate should apply due to unique geographical, financial, or other circumstances affecting the business. No business for which a zero assessment rate is set pursuant to this subdivision shall be sent a ballot or entitled to participate in the initial referendum, or in any subsequent referendum in which its rate of assessment is set at zero.

(e) The committee members for each industry category, also referred to as a subcommittee, shall prepare a recommendation for the entire committee on how the items specified in subdivision (c) should be determined for the industry segments within their industry category. The recommendations shall not include a discussion of industry category levies, which shall be determined solely by the committee. In the event that the subcommittee cannot agree on one or more of the items specified in subdivision (c), no recommendation shall be given in that category. The recommendations shall be presented to the full committee, which shall address each of the items contained in subdivision (c).

(f) In order to be assessed, an industry segment shall be defined with sufficient clarity to allow for the cost-effective identification of assessed businesses within that segment.

(g) It shall be the responsibility of the county selection committee to advertise widely the selection committee process and to schedule public meetings for potential assessed businesses to provide input to the selection committee.

(h) The selection committee process and report shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(i) The Los Angeles Convention and Visitors Bureau shall be asked to supply staff support to the county selection committee. The ~~Office of Tourism within the Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development* shall not be required to supply staff support to the county selection committee.

SEC. 319. Section 13995.110 of the Government Code is amended to read:

13995.110. (a) No referendum required under this article shall be undertaken until any of the following occurs, whichever is earliest:

(1) A statewide referendum held pursuant to this chapter has obtained a passing vote in the County of Los Angeles.

(2) Two statewide referenda have been held pursuant to this chapter.

(3) July 1, 1998.

(b) Referenda required under this article shall be conducted in a similar manner as provided in Article 6 (commencing with Section ~~13995.60~~ *13995.60)* as follows:

(1) The county commission shall undertake all duties, and act in all respects, in place of the California Tourism Marketing Commission, and either the county or the county treasurer/tax collector, as designated in this article, shall act in place of the ~~Secretary of Business, Transportation and Housing~~ *Director of the Governor's Office of Business and Economic Development*.

(2) The initial assessment target for the county commission shall be set by the county selection committee.

(3) The first referendum shall be initiated by industry members, with all costs of marketing and promoting of the initial referendum to be provided by the tourism industry.

(4) Each referendum may cover one or more of the following subjects:

(A) Assessment level based upon specified assessment formula.

(B) Amended industry segment allocation formulae.

(C) Percentage allocation of assessments between industry categories and segments.

(D) Election of county commissioners subject to election by referendum.

(E) Termination of the county commission.

(F) Whether to establish, continue, or reestablish an assessment.

(5) The costs of all marketing and promoting of all referenda following the initial referendum shall be paid by the county commission from assessments collected. The county commission may reimburse those who have contributed to the costs of the initial referendum from proceeds raised from assessments collected from the initial referendum.

SEC. 320. Section 13995.116 of the Government Code is amended to read:

13995.116. This article is subject to Article 8 (commencing with Section 13995.80) and Article 9 (commencing with Section 13995.90) except that, as to Article 8, either the county or the county treasurer/tax collector, as designated in this article, shall act in the place of the ~~Secretary of Business, Transportation and Housing~~ *Director of the Governor's Office of Business and Economic Development* in all respects.

SEC. 321. Section 14001 of the Government Code is amended to read:

14001. There is in the ~~Business, Transportation and Housing Agency~~ *Transportation Agency* a Department of Transportation.

Any reference in any law or regulation to the Department of Public Works shall be deemed to refer to the Department of Transportation.

SEC. 322. Section 14002.5 of the Government Code is amended to read:

14002.5. As used in this part, unless the context otherwise requires:

(a) "Department" means the Department of Transportation.

(b) "Director" means the Director of Transportation.

(c) "Secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*.

(d) "Board" or "commission" means the California Transportation Commission.

(e) "Displaced worker" means individuals eligible for assistance pursuant to Section 15076 of the Unemployment Insurance Code.

SEC. 323. Section 14031.8 of the Government Code is amended to read:

14031.8. (a) The Secretary of ~~Business, Transportation and Housing~~ *Transportation* shall establish, through an annual budget process, the level of state funding available for the operation of intercity passenger rail service in each corridor.

(b) Where applicable, operating funds shall be allocated by the secretary to the joint powers board in accordance with an interagency transfer agreement that includes mutually agreed-upon rail services. Funds for the administration and marketing of services, as appropriate, shall also be transferred by the secretary to the joint powers board, subject to the terms of the interagency agreement.

(c) The joint powers board or local or regional entities may augment state-provided resources to expand intercity passenger rail services, or to address funding shortfalls in achieving agreed-upon performance standards. The joint powers board or local or regional agencies may, but shall not be required to, identify and secure new supplemental sources of funding for the purpose of expanding or maintaining intercity rail passenger service levels, which may include state and federal intercity rail resources. Local resources may be available to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity passenger rail services identified in subdivision (b) only if the local resources are dedicated by a vote of the local agency providing funds, with the concurrence of the joint powers board.

(d) The department may provide any support services as may be mutually agreed upon by the joint powers board and the department.

(e) Operating costs shall be controlled by dealing with, at a minimum, the Amtrak cost allocation formula and the ability to contract out to Amtrak or other rail operators as a part of federal legislation dealing with Amtrak reauthorization.

(f) (1) Not later than June 30, 2014, the secretary shall establish a set of uniform performance standards for all corridors and operators to control cost and improve efficiency.

(2) To the extent necessary, as determined by the secretary, performance standards may be modified not later than July 30, 2015, or the effective date of the interagency transfer agreement, whichever comes first.

(3) Feeder bus services that provide connections for intercity rail passengers shall not be terminated unless the bus services fail to meet the cost-effectiveness standard described in paragraph (3) of subdivision (a) of Section 14035.2.

SEC. 324. Section 14070 of the Government Code is amended to read:

14070. As used in this article, the following terms have the following meanings:

(a) "Board" or "joint powers board" means the governing board of a joint exercise of powers agency established pursuant to Article 5.2 (commencing with Section 14072), Article 5.4 (commencing with Section 14074), or Article 5.6 (commencing with Section 14076) for the purpose of assuming administrative responsibility for intercity passenger rail service within the respective corridor.

(b) "Secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*.

SEC. 325. Section 14087 of the Government Code is amended to read:

14087. If the governing body of a public entity wishes to appeal an action of the department taken under Section 14085 the matter shall be appealed to the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*. Within a reasonable time after receiving the appeal, the secretary shall hear all parties involved and determine the matter, or the secretary may appoint a hearing officer to hear all parties involved and make a recommendation for the consideration of the secretary in determining the matter.

SEC. 326. Section 14500 of the Government Code is amended to read:

14500. There is in the ~~state government~~ *Transportation Agency* a California Transportation Commission.

SEC. 327. Section 14520 of the Government Code is amended to read:

14520. The commission shall advise and assist the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation* and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

SEC. 328. Section 14601 of the Government Code is amended to read:

14601. There is in the state government, in the ~~State and Consumer Services~~ *Government Operations* Agency, the Department of General Services.

SEC. 329. Section 14669.21 of the Government Code is amended to read:

14669.21. (a) The Director of the Department of General Services is authorized to acquire, develop, design, and construct, according to plans and specifications approved by the Los Angeles Regional Crime Laboratory Facility Authority, an approximately 200,000 gross square foot regional criminal justice laboratory, necessary infrastructure, and related surface parking to accommodate approximately 600 cars on the Los Angeles campus of the California State University. In accordance with this authorization, the director is authorized to enter into any agreements, contracts, leases, or other documents necessary to effectuate and further the transaction. Further, the Los Angeles Regional Crime Laboratory Facility Authority is authorized to assign, and the director is authorized to accept, all contracts already entered into by the Los Angeles Regional Crime Laboratory Facility Authority for the development and design of this project. It is acknowledged that these contracts will have to be modified to make them consistent with the standards for state projects. The director is additionally authorized to enter into a long-term ground lease for 75 years with the Trustees of the California State University for the land within the Los Angeles campus on which the project is to be constructed. At the end of the ground lease term, unencumbered title to the land shall return to the trustees and, at the option of the trustees, ownership of any improvements constructed pursuant to this section shall vest in the trustees. The trustees are authorized and directed to fully cooperate and enter into a ground lease with the Department of General Services upon the terms and conditions that will facilitate the financing of this project by the State Public Works Board. The trustees shall obtain concurrence from the Los Angeles Regional Crime Laboratory

Facility Authority in the development of the long-term ground lease referenced in this section. In his or her capacity, the director is directed to obtain concurrence and approval from the trustees relating to the design and construction of the facility consistent with the trustees' reasonable requirements.

(b) The State Public Works Board is authorized to issue lease revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) for the acquisition, development, design, and construction of the regional crime laboratory as described in this section. The project shall be acquired, developed, designed, and constructed on behalf of the State Public Works Board and the ~~California Emergency Management Agency~~ *Office of Emergency Services* by the Department of General Services in accordance with state laws applicable to state projects provided, however, that the contractor prequalification specified in Section 20101 of the Public Contract Code may be utilized. For purposes of compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) the agency or agencies designated by the Director of Finance pursuant to Section 13820 of the Penal Code is the lead agency, and the trustees, acting through the California State University at Los Angeles, and the Los Angeles Regional Crime Laboratory Facility Authority are responsible agencies.

(c) The State Public Works Board and the agency or agencies designated by the Director of Finance pursuant to Section 13820 of the Penal Code may borrow funds for project costs from the Pooled Money Investment Account, pursuant to Sections 16312 and 16313, or from any other appropriate source. In the event the bonds authorized by this section for the project are not sold, the agency or agencies designated by the Director of Finance pursuant to Section 13820 of the Penal Code shall commit a sufficient amount of its support appropriation to repay any loans made for the project.

(d) The amount of lease revenue bonds, negotiable notes, or negotiable bond anticipation notes to be issued by the State Public Works Board shall not exceed ninety-two million dollars ($92,000,000) and any additional sums necessary to pay interim and permanent financing costs. The additional sums may also

include interest and a reasonably required reserve fund. This amount includes additional estimated project costs associated with reformatting the initial local assistance appropriation into a state managed and constructed regional crime laboratory project.

(e) The agency or agencies designated by the Director of Finance pursuant to Section 13820 of the Penal Code may execute a contract with the State Public Works Board for the lease of the regional crime laboratory facilities described in this section that are financed with the proceeds of the board's bonds. Further, and notwithstanding any other provision of law, the agency or agencies designated by the Director of Finance pursuant to Section 13820 of the Penal Code is authorized to enter into contracts and subleases with the trustees, the Los Angeles Regional Crime Laboratory Facility Authority, the Department of Justice, and any other appropriate state or local agency, with the consent of the State Public Works Board and the Department of General Services, for the use, maintenance, and operation of the financed regional crime laboratory facilities described in this section.

(f) When all of the bonds or notes authorized pursuant to subdivision (d) have been paid in full or provided for in accordance with their terms, notwithstanding any other provision of law, the Department of General Services shall assign the ground lease entered into pursuant to subdivision (a) to the Los Angeles Regional Crime Laboratory Facility Authority or its successor agency. At that time, the ground lease may be amended as agreed to by the trustees and the Los Angeles Regional Crime Laboratory Facility Authority or its successor agency.

SEC. 330. Section 14998.2 of the Government Code is amended to read:

14998.2. (a) There is in the ~~Business, Transportation, and Housing Agency~~ *Governor's Office of Business and Economic Development,* the California Film Commission consisting of 26 members. The Governor shall appoint 13 members, the Senate Committee on Rules shall appoint four members, the Speaker of the Assembly shall appoint four members, and five members shall be ex officio. The members of the commission appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in

the motion picture industry, and other appropriate members of this or related industries.

All members of the commission, except legislators who are appointed either by the Senate Committee on Rules or by the Speaker of the Assembly, shall serve at the pleasure of the appointing authority for a term of two years from the effective date of the appointment.

(b) (1) One of the members appointed by the Senate Committee on Rules shall, and another one may, be a Senator and one of the members appointed by the Speaker of the Assembly shall, and another one may, be a Member of the Assembly. These persons shall be appointed for terms of four years.

(2) Of the legislators appointed to the commission, no more than three legislators from the same political party may be appointed to or serve on the commission at the same time.

(c) Any legislator appointed shall serve as a voting member of the commission, and shall meet with, and participate in the activities of, the commission to the extent that participation is not incompatible with his or her position as a Member of the Legislature, but shall only serve in that capacity while concurrently serving as a Member of the Legislature. Whenever a legislator vacates an office, the appointing power shall appoint another person for a new full term.

(d) Six of the 13 members appointed by the Governor shall be as follows:

(1) One shall be a person who is a member or employee of a union or guild of motion picture artists.

(2) One shall be a person who is a member or employee of a union or guild representing motion picture craftsmen, technicians, or photographers.

(3) Two shall be from major motion picture studios.

(4) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(5) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

(e) The Director of Transportation shall serve as an ex officio nonvoting member.

(f) The Director of Parks and Recreation shall serve as an ex officio nonvoting member.

(g) The Commissioner of the California Highway Patrol shall serve as an ex officio nonvoting member.

(h) The State Fire Marshal shall serve as an ex officio nonvoting member.

(i) The director of the commission shall serve as an ex officio nonvoting member.

SEC. 331. Section 15251 of the Government Code is amended to read:

15251. Unless the context requires otherwise, as used in this part, the following terms shall have the following meanings:

(a) ~~"Agency"~~ *"Department"* means the ~~California~~ *Department of* Technology ~~Agency~~.

(b) "Division" means the Public Safety Communications Division established by this part.

SEC. 332. Section 15253 of the Government Code is amended to read:

15253. This part shall apply only to those communications facilities which are owned and operated by public agencies in connection with official business of law enforcement services, fire services, natural resources services, agricultural services, and highway maintenance and control of the state or of cities, counties, and other political subdivisions in this state. This part shall not be construed as conferring upon the ~~agency~~ *department* control of programs or broadcasts intended for the general public.

SEC. 333. Section 15254 of the Government Code is amended to read:

15254. Radio and other communications facilities owned or operated by the state and subject to the jurisdiction of the ~~agency~~ *department* shall not be used for political, sectarian, or propaganda purposes. The facilities shall not be used for the purpose of broadcasts intended for the general public, except for fire, flood, frost, storm, catastrophe, and other warnings and information for the protection of the public safety as the ~~agency~~ *department* may prescribe.

SEC. 334. Section 15275 of the Government Code is amended to read:

15275. The ~~agency~~ *department* may do all of the following:

(a) Provide adequate representation of local and state governmental bodies and agencies before the Federal Communications Commission in matters affecting the state and its cities, counties, and other public agencies regarding public safety communications issues.

(b) Provide, upon request, adequate advice to state and local agencies in the state concerning existing or proposed public safety communications facilities between any and all of the following: cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.

(c) Recommend to the appropriate state and local agencies rules, regulations, procedures, and methods of operation that it deems necessary to effectuate the most efficient and economical use of publicly owned and operated public safety communications facilities within this state.

(d) Provide, upon request, information and data concerning the public safety communications facilities that are owned and operated by public agencies in connection with official business of public safety services.

(e) Carry out the policy of this part.

SEC. 335. Section 15277 of the Government Code is amended to read:

15277. The Public Safety Communications Division is established within the ~~agency~~ *department*. The duties of the division shall include, but not be limited to, all of the following:

(a) Assessing the overall long-range public safety communications needs and requirements of the state considering emergency operations, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and other factors deemed to be important to state needs and requirements.

(b) Developing strategic and tactical policies and plans for public safety communications with consideration for the systems and requirements of the state and all public agencies in this state, and preparing an annual strategic communications plan that includes the feasibility of interfaces with federal and other state telecommunications networks and services.

(c) Recommending industry standards for public safety communications systems to ensure multiuser availability and compatibility.

(d) Providing advice and assistance in the selection of communications equipment to ensure that the public safety communications needs of state agencies are met and that procurements are compatible throughout state agencies and are consistent with the state's strategic and tactical plans for public safety communications.

(e) Providing management oversight of statewide public safety communications systems developments.

(f) Providing for coordination of, and comment on, plans, policies, and operational requirements from departments that utilize public safety communications in support of their principal function, such as the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services*, National Guard, health and safety agencies, and others with primary public safety communications programs.

(g) Monitoring and participating on behalf of the state in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations that have an impact on state government public safety communications activities.

(h) Developing plans regarding teleconferencing as an alternative to state travel during emergency situations.

(i) Ensuring that all radio transmitting devices owned or operated by state agencies and departments are licensed, installed, and maintained in accordance with the requirements of federal law. A request for a federally required license for a state-owned radio transmitting device shall be sought only in the name of the "State of California."

(j) Acquiring, installing, equipping, maintaining, and operating new or existing public safety communications systems and facilities for public safety agencies. To accomplish that purpose, the division is authorized to enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other necessary acts to provide adequate and efficient public safety communications systems. Any systems established shall be available to all public agencies in the state on terms that may be agreed upon by the public agency and the division.

(k) Acquiring, installing, equipping, maintaining, and operating all new or replacement microwave communications systems

operated by the state, except microwave equipment used exclusively for traffic signal and signing control, traffic metering, and roadway surveillance systems. To accomplish that purpose, the division is authorized to enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other necessary acts to provide adequate and efficient microwave communications systems. Any system established shall be available to all public safety agencies in the state on terms that may be agreed upon by the public agency and the division.

(*l*) This chapter shall not apply to Department of Justice communications operated pursuant to Chapter 2.5 (commencing with Section 15150) of Part 6.

SEC. 336. Section 15363.61 of the Government Code is amended to read:

15363.61. (a) The Legislature finds and declares as follows:

(1) The entertainment industry is one of California's leading industries in terms of employment and tax revenue.

(2) While film, television, and commercial production in California has expanded over the years, other states and countries actively compete for California production business. It is generally acknowledged that certain segments of the industry, mainly film and television production, are especially hard hit in California. The Legislature finds that this is due to assertive efforts of other states and countries, offering various incentives for filming outside of California. As a result of increased marketing efforts by other states and countries, unemployment in certain film industry sectors and a reduction of film business has occurred within California.

(3) Recognizing the vital role the entertainment industry plays in California's economy, legislation enacted in 1985 created the California Film Commission ~~within the Business, Transportation and Housing Agency~~ to facilitate, retain, and attract filming in California.

(4) In order to stop the decline of California film production, it is necessary and appropriate to assist in the underwriting of actual costs incurred by production companies to film in California and to provide opportunities for production companies and other film industry companies to lease property owned by the State of California at below market rates.

(5) Providing the funds designated under this program, and leasing property owned by the State of California at below market

rates is in the public interest and serves a public purpose, and providing incentives to production companies and other film industry companies will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) It is the intent of the Legislature that, commencing with the 2002–03 fiscal year, funding for the program from the General Fund shall not exceed the General Fund funding level for the prior fiscal year.

SEC. 337. Section 15363.62 of the Government Code is amended to read:

15363.62. For purposes of this chapter, the following meanings shall apply:

~~(a) "Agency" means the Business, Transportation and Housing Agency, which includes the California Film Commission.~~

~~(b)~~

(a) "Film" means any commercial production for motion picture, television, commercial, or still photography.

~~(c)~~

(b) "Film costs" means the usual and customary charges by a public agency connected with the production of a film, limited to any of the following:

(1) State employee costs.

(2) Federal employee costs.

(3) Federal, state, University of California, and California State University permits and rental costs.

(4) Local public entity employee costs.

(5) Local property use fees.

(6) Rental costs for equipment owned and operated by a public agency in connection with the film.

~~(d)~~

(c) "Fund" means the Film California First Fund, established pursuant to Section 15363.74.

(d) "Office" means the Governor's Office of Business and Economic Development, which includes the California Film Commission.

(e) "Production company" means a company, partnership, or corporation, engaged in the production of film.

(f) "Program" means the Film California First Program established pursuant to this chapter.

(g) "Public agency" means any of the following:

(1) The State of California, and any of its agencies, departments, boards, or commissions.

(2) The federal government, and any of its agencies, departments, boards, or commissions.

(3) The University of California.

(4) The California State University.

(5) California local public entities.

(6) Any nonprofit corporation acting as an agent for the recovery of costs incurred by any of the entities listed in this subdivision.

SEC. 338. Section 15363.63 of the Government Code is amended to read:

15363.63. (a) (1) Except as provided in paragraph (2), the ~~Business, Transportation and Housing Agency~~ *office* may pay and reimburse the film costs incurred by a public agency, subject to an audit. The director of the commission shall develop alternate procedures for the reimbursement of public agency costs incurred by the production company. The ~~Business, Transportation and Housing Agency~~ *office* shall only reimburse actual costs incurred and may not reimburse for duplicative costs.

(2) Notwithstanding paragraph (1), the ~~Business, Transportation and Housing Agency~~ *office* shall not reimburse costs at rates exceeding those in effect as of January 1, 2002.

(b) Notwithstanding any other provision of law, the Controller shall pay any program invoice received from the ~~agency~~ *office* that contains documentation detailing the film costs, and if the party requesting payment or reimbursement is a public agency, a certification that the invoice is not duplicative cost recovery, and an agreement by the public agency that the ~~Business, Transportation and Housing Agency~~ *office* may audit the public agency for invoice compliance with the program requirements.

(c) (1) Not more than three hundred thousand dollars ($300,000) shall be expended to pay or reimburse costs incurred on any one film.

(2) In developing the procedures and guidelines for the program, the commission may, in consultation with interested public agencies, establish limits on per day film costs that the state will reimburse. A consultation and comment period shall begin on January 1, 2001, and shall end 30 days thereafter.

(d) (1) Upon receipt of all necessary film costs documentation from a public agency, the ~~Business, Transportation and Housing~~

~~Agency~~ *office* shall transmit the appropriate information to the Controller for payment of the film costs within 30 days.

(2) Public agencies shall be entitled to reimbursement for certain administrative costs, to be determined by the director of the commission, incurred while participating in the program. The reimbursement for administrative costs shall not exceed 1 percent of the total amount of the invoices submitted. Reimbursement shall have an annual cap imposed of not more than ten thousand dollars ($10,000) per public agency participating in the program. Contracted agents working on behalf of two or more public agencies shall have a cap of not more than twenty thousand dollars ($20,000) annually.

(e) The commission shall prepare annual preliminary reports to be submitted to the Joint Legislative Budget Committee in regard to the program prior to the adoption of the annual Budget Act. The reports shall include a list of all entities that received funds from the program, the amounts they received, and the public services that were reimbursed. The commission shall prepare and submit a final report to the committee no later than January 1, 2004.

(f) The commission shall, in consultation with the Department of Industrial Relations and the Employment Development Department, contract with an independent audit firm or qualified academic expert, to prepare a report to be submitted to the Joint Legislative Budget Committee no later than January 1, 2004, that identifies the beneficiaries of expenditures from the Film California First Fund, and determines the impact of these expenditures on job retention and job creation in California.

SEC. 339. Section 15700 of the Government Code is amended to read:

15700. There is in the state government, in the ~~Agriculture and Services~~ *Government Operations* Agency, a Franchise Tax Board consisting of the ~~State~~ Controller, the Director of Finance, and the ~~Chairman~~ *Chairperson* of the State Board of Equalization. The Franchise Tax Board is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Franchise Tax Commissioner, but the statutes and laws under which that office existed and all laws prescribing the duties, powers, purposes, responsibilities, and jurisdiction of that office, together with all lawful rules and regulations established thereunder, are expressly continued in force. “Franchise Tax

Commissioner" when used in any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted, means the Franchise Tax Board. No action to which the Franchise Tax Commissioner is a party shall abate by reason hereof but shall continue in the name of the Franchise Tax Board, and the Franchise Tax Board shall be substituted for the Franchise Tax Commissioner by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

Notwithstanding any other provision of the law to the contrary, any directive or regulation adopted by the Franchise Tax Board shall take precedence over any directive or regulation adopted by its executive officer.

SEC. 340. Section 15957 of the Government Code is amended to read:

15957. "Secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*.

On and after January 1, 1985, any duty, power, purpose, responsibility, or jurisdiction which is vested by this part in the secretary is hereby transferred to the Director of Transportation. Whenever any reference is made in this part to the secretary, it shall be deemed to be a reference to, and to mean, the Director of Transportation.

SEC. 341. Section 16304.9 of the Government Code is amended to read:

16304.9. *(a)* Upon the effective date of an act transferring any of the powers or duties of any state officer or agency to another state officer or agency, the Department of Finance shall determine the portion remaining of any appropriation which was intended to be used for the performance of such powers or duties, and shall certify this amount to the ~~State~~ Controller. The ~~State~~ Controller shall thereupon transfer such amount to the state officer or agency to which such powers or duties were transferred.

(b) The Department of Finance shall make the final determination of the budgetary and accounting transactions and treatments to ensure proper implementation of reorganization, mergers, or the elimination of state entities, offices, or agencies.

SEC. 342. Section 18521 of the Government Code is amended to read:

18521. "Board" means the agency created by Section 2 of Article VII of the Constitution and includes the "State Personnel

Board" provided in Section 2(a) and the "executive officer" provided in Section 2(c) thereof. *The board shall be within the Government Operations Agency.*

SEC. 343. Section 19815.25 is added to the Government Code, to read:

19815.25. The Department of Human Resources, as established on July 1, 2012, is hereby established within the Government Operations Agency.

SEC. 344. Section 19844.5 of the Government Code is amended to read:

19844.5. (a) A state employee who is called into service by the ~~California Emergency Management Agency~~ *Office of Emergency Services* pursuant to a mission assignment number for the purpose of engaging in a search and rescue operation, disaster mission, or other life-saving mission conducted within the state is entitled to administrative time off from his or her appointing power. The appointing power shall not be liable for payment of any disability or death benefits in the event the employee is injured or killed in the course of service to the ~~California Emergency Management Agency~~ *Office of Emergency Services*, but the employee shall remain entitled to any benefits currently provided by the agency.

(b) The period of the duty described in subdivision (a) shall not exceed 10 calendar days per fiscal year, including the time involved in going to and returning from the duty. A single mission shall not exceed three days, unless an extension of time is granted by the office and the appointing power.

(c) This section shall apply only to volunteers participating in the California Explorer Search and Rescue Team, Drowning Accident Rescue Team, Wilderness Organization of Finders, California Rescue Dog Association, and the California Wing of the Civil Air Patrol.

(d) A state employee engaging in a duty as described in this section shall not receive overtime compensation for the hours of time off taken but shall receive normal compensation.

(e) A state employee shall be released to engage in a duty described in this section at the discretion of the appointing power. However, leave shall not be unreasonably denied. The appointing power shall also establish a procedure whereby state employees

who receive weekend or evening requests to serve may be released to do so.

SEC. 345. Section 20002 of the Government Code is amended to read:

20002. The Public Employees' Retirement System created by Chapter 700 of the Statutes of 1931, as amended, is continued in existence under this part. This system is a unit of the ~~State and Consumer Services~~ *Government Operations* Agency.

SEC. 346. Section 26614 of the Government Code is amended to read:

26614. The board of supervisors of a county may authorize the sheriff to search for and rescue persons who are lost or are in danger of their lives within or in the immediate vicinity of the county. The expense incurred by the sheriff in the performance of those duties shall be a proper county charge. Authorization for search and rescue activities shall be consistent with guidelines and operating plans contained in the Search and Rescue Model Operating Plan, as developed and adopted by the ~~California Emergency Management Agency~~ *Office of Emergency Services* in consultation with fire protection and law enforcement service providers. The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall make the plan available to counties and fire protection and law enforcement agencies for use and adoption by the board of supervisors and the governing boards of all search and rescue providers. If the board assigns responsibility for search and rescue activities in a manner that is inconsistent with these model operating guidelines, the board shall adopt a resolution to clarify why the local model provides better protections than the Search and Rescue Model Operating Plan, as developed by the ~~California Emergency Management Agency~~ *Office of Emergency Services*, to residents in need of county search and rescue services. Counties are encouraged to adopt their countywide search and rescue plans and to review them on a regular basis. A review of a countywide search and rescue plan shall include, but is not limited to, changes made to the Search and Rescue Model Operating Plan by the ~~California Emergency Management Agency~~ *Office of Emergency Services*. This section shall not be construed to vest any additional powers for search and rescue upon sheriffs or any other public safety agency that provides search and rescue.

SEC. 347. Section 51018 of the Government Code is amended to read:

51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported by the pipeline operator to the fire department having fire suppression responsibilities and to the ~~California Emergency Management Agency~~ *Office of Emergency Services*. In addition, the pipeline operator shall, within 30 days of the rupture, explosion, or fire, file a report with the State Fire Marshal containing all the information that the State Fire Marshal may reasonably require to prepare the report required pursuant to subdivision (d).

(b) (1) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall immediately notify the State Fire Marshal of the incident, who shall immediately dispatch his or her employees to the scene. The State Fire Marshal or his or her employees, upon arrival, shall provide technical expertise and advise the operator and all public agencies on activities needed to mitigate the hazard.

(2) For purposes of this subdivision, the Legislature does not intend to hinder or disrupt the workings of the "incident commander system," but does intend to establish a recognized element of expertise and direction for the incident command to consult and acknowledge as an authority on the subject of pipeline incident mitigation. Furthermore, it is expected that the State Fire Marshal will recognize the expertise of the pipeline operator and any other emergency agency personnel who may be familiar with the particular location of the incident and respect their knowledgeable input regarding the mitigation of the incident.

(c) For purposes of this section, "rupture" includes every unintentional liquid leak, including any leak that occurs during hydrostatic testing, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil or petroleum product leak in any in-plant piping system of less than five barrels, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(d) The State Fire Marshal shall, every fifth year commencing in 1999, issue a report identifying pipeline leak incident rate trends, reviewing current regulatory effectiveness with regard to pipeline safety, and recommending any necessary changes to the Legislature. This report shall include an assessment of the condition of each pipeline and shall include all of the following: total length of regulated pipelines, total length of regulated piggable pipeline, total number of line sections, average length of each section, number of leaks during study period, average spill size, average damage per incident, average age of leak pipe, average diameter of leak pipe, injuries during study period, cause of the leak or spill, fatalities during study period, and other information as deemed appropriate by the State Fire Marshal.

(e) This section does not preempt any other applicable federal or state reporting requirement.

(f) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

(g) This section does not apply to pipeline ruptures involving nonreportable crude oil spills under Section 3233 of the Public Resources Code, unless the spill involves a fire or explosion.

SEC. 348. Section 53108.5 of the Government Code is amended to read:

53108.5. "Division," as used in this article, means the Public Safety Communications Division within the ~~California~~ *Department of* Technology ~~Agency~~.

SEC. 349. Section 53126.5 of the Government Code is amended to read:

53126.5. For purposes of this article, the following definitions apply:

(a) "Local public agency" means a city, county, city and county, and joint powers authority that provides a public safety answering point (PSAP).

(b) "Nonemergency telephone system" means a system structured to provide access to only public safety agencies such as police and fire, or a system structured to provide access to public safety agencies and to all other services provided by a local public agency such as street maintenance and animal control.

(c) "Public Safety Communications Division" means the Public Safety Communications Division within the ~~California~~ *Department of* Technology ~~Agency~~.

SEC. 350. Section 53630.5 of the Government Code is amended to read:

53630.5. (a) The definitions in Section ~~1700~~ *1750* of, and Chapter 1 (commencing with Section 99) of Division 1 of, the Financial Code apply to this section.

(b) In this article, for purposes of being a depository of moneys belonging to or being in the custody of a local agency, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in this state," and "state or national banks in the state" include, without limitation, any of the following:

(1) Any California branch office of a foreign (other state) state bank that the bank is authorized to maintain under the law of its domicile and federal law.

(2) Any California branch office of a foreign (other state) national bank that the bank is authorized to maintain under federal law.

(3) Any California branch office of a foreign (other nation) bank that the bank is licensed to maintain under Article 3 (commencing with Section ~~1750)~~ *1800)* of Chapter ~~13.5~~ *20* of Division ~~1~~ *1.1* of the Financial Code.

(4) Any California federal branch of a foreign (other nation) bank that the bank is authorized to maintain under federal law.

SEC. 351. Section 54238.3 of the Government Code is amended to read:

54238.3. (a) This article shall apply only to surplus residential properties which were acquired for a state project, for which at least 20 dwelling units were acquired and owned by the state on January 1, 1980, or on the date the properties were declared to be surplus, whichever date occurs later. For the purpose of this section, a freeway route and its interchanges shall be considered one state project. Except for State Highway Route 7 in Los Angeles County, this article shall not apply to freeway routes rescinded on or after January 1, 1984.

(b) Any person who is displaced from any dwelling located on such residential property that is also located within the right-of-way of a freeway route or its interchanges for which the property was declared surplus on or after January 1, 1984, and who occupied

that dwelling for at least 90 days prior to the date the property was declared surplus, shall be eligible to receive the relocation advisory assistance provided by Section 7261, the relocation benefits provided by paragraph (1) of subdivision (a) or subdivision (b) of Section 7262, the payments authorized by subdivision (b) or (c) of Section 7264, and the right for review of decision as provided by Section 7266 if the person is forced to relocate from the dwelling, as a direct result of the state agency's disposal of the excess real property, within 90 days of the recordation of the deed from the state agency to a new owner.

(c) Whenever a state surplus residential property disposal project, as described in subdivision (b), includes 50 or more dwelling units, a Relocation Liaison shall be appointed by the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*. The term of the appointment shall be of sufficient duration for the Relocation Liaison to fulfill the assignment, not to exceed 180 days, and shall begin on the date that the property is declared to be surplus. The Relocation Liaison shall have the following assigned duties and responsibilities:

(1) Meet with the eligible persons and explain to them the benefits defined in subdivision (b).

(2) In conjunction with the state agency, assist in obtaining replacement housing for eligible persons.

(3) Assist eligible persons in completing and processing claims for benefits.

The state agency which is disposing of the surplus residential property shall be responsible for underwriting all reasonable costs as determined by the secretary associated with the operation of the Relocation Liaison's office necessary to perform all duties assigned to it.

SEC. 352. Section 63021 of the Government Code is amended to read:

63021. (a) There is within the ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development* the Infrastructure and Economic Development Bank which shall be responsible for administering this division.

(b) The bank shall be under the direction of an executive director appointed by the Governor, and who shall serve at the pleasure of the Governor. The appointment shall be subject to confirmation by the Senate.

SEC. 353. Section 63021.5 of the Government Code is amended to read:

63021.5. (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

(1) The Director of Finance or his or her designee.

(2) The Treasurer or his or her designee.

(3) The ~~Secretary of Business, Transportation and Housing~~ *Director of the Governor's Office of Economic and Business Development* or his or her designee, who shall serve as chair of the board.

(4) An appointee of the Governor.

(5) The Secretary of ~~State and Consumer Services Agency~~ *Transportation* or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars ($100) for each full day of attending meetings of the authority.

SEC. 354. Section 65037.1 of the Government Code is repealed.

~~65037.1. The position of the Secretary of Service and Volunteering is hereby established in state government in the Office of Planning and Research. The secretary shall be appointed by, and serve at the pleasure of, the Governor. The appointment of the secretary shall be subject to Senate confirmation.~~

SEC. 355. Section 65080.1 of the Government Code, as amended by Section 20 of Chapter 681 of the Statutes of 1982, is amended to read:

65080.1. Once preparation of a regional transportation plan has been commenced by or on behalf of a designated transportation planning agency, the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation* shall not designate a new transportation planning agency pursuant to Section 29532 for all or any part of the geographic area served by the originally designated agency unless he or she first determines that redesignation will not result in the loss to California of any substantial amounts of federal funds.

SEC. 356. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act

of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" mean bicyclists, children, persons with disabilities,

motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding;

and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Technical Advice Series" and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.

(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills

commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) After the initial revision of the safety element pursuant to paragraphs (2) and (3), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(5) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(6) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the ~~California Emergency Management Agency~~ *Office of Emergency Services* for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(7) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 357. Section 65302.6 of the Government Code is amended to read:

65302.6. (a) A city, county, or a city and county may adopt with its safety element pursuant to subdivision (g) of Section 65302 a local hazard mitigation plan (HMP) specified in the federal Disaster Mitigation Act of 2000 (Public Law 106-390). The hazard mitigation plan shall include all of the following elements called for in the federal act requirements:

(1) An initial earthquake performance evaluation of public facilities that provide essential services, shelter, and critical governmental functions.

(2) An inventory of private facilities that are potentially hazardous, including, but not limited to, multiunit, soft story, concrete tilt-up, and concrete frame buildings.

(3) A plan to reduce the potential risk from private and governmental facilities in the event of a disaster.

(b) Local jurisdictions that have not adopted a local hazard mitigation plan shall be given preference by the ~~California Emergency Management Agency~~ *Office of Emergency Services* in recommending actions to be funded from the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the Flood Mitigation Assistance Program to assist the local jurisdiction in developing and adopting a local hazard mitigation plan, subject to available funding from the Federal Emergency Management Agency.

SEC. 358. Section 66427.1 of the Government Code is amended to read:

66427.1. (a) The legislative body shall not approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project, unless it finds as follows:

(1) Each tenant of the proposed condominium, community apartment project, or stock cooperative project, and each person applying for the rental of a unit in the residential real property, has received or will have received all applicable notices and rights now or hereafter required by this chapter or Chapter 3 (commencing with Section 66451).

(2) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has received or will receive each of the following notices:

(A) Written notification, pursuant to Section 66452.18, of intention to convert, provided at least 60 days prior to the filing of a tentative map pursuant to Section 66452.

(B) Ten days' written notification that an application for a public report will be, or has been, submitted to the ~~Department of Real Estate~~ *Bureau of Real Estate*, that the period for each tenant's right

to purchase begins with the issuance of the final public report, and that the report will be available on request.

(C) Written notification that the subdivider has received the public report from the ~~Department of Real Estate~~ *Bureau of Real Estate*. This notice shall be provided within five days after the date that the subdivider receives the public report from the ~~Department of Real Estate~~ *Bureau of Real Estate*.

(D) Written notification within 10 days after approval of a final map for the proposed conversion.

(E) One hundred eighty days' written notice of intention to convert, provided prior to termination of tenancy due to the conversion or proposed conversion pursuant to Section 66452.19, but not before the local authority has approved a tentative map for the conversion. The notice given pursuant to this paragraph shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

(F) Notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that the unit will be initially offered to the general public or terms more favorable to the tenant pursuant to Section 66452.20. The exclusive right to purchase shall commence on the date the subdivision public report is issued, as provided in Section 11018.2 of the Business and Professions Code, and shall run for a period of not less than 90 days, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(b) The written notices to tenants required by subparagraphs (A) and (B) of paragraph (2) of subdivision (a) shall be deemed satisfied if those notices comply with the legal requirements for service by mail.

(c) This section shall not diminish, limit, or expand, other than as provided in this section, the authority of any city, county, or city and county to approve or disapprove condominium projects.

(d) If a rental agreement was negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, all required written notices regarding the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project shall be issued in that language.

SEC. 359. Section 66452.17 of the Government Code is amended to read:

66452.17. (a) Commencing at a date not less than 60 days prior to the filing of a tentative map pursuant to Section 66452, the subdivider or his or her agent shall give notice of the filing, in the form outlined in subdivision (b), to each person applying after that date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider.

(b) The notice shall be as follows:

"To the prospective occupant(s) of

_____:

(address)

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the (city, county, or city and county) and until after a public report is issued by the ~~Department of Real Estate~~ *Bureau of Real Estate*. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

_____

(signature of owner or owner's agent)

_____

(dated)

I have received this notice on _____.

(date)

_____

(prospective tenant's signature)"

(c) Failure by a subdivider or his or her agent to give the notice required in subdivision (a) shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each

prospective tenant who becomes a tenant and who was entitled to the notice, and who does not purchase his or her unit pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, an amount equal to the sum of the following:

(1) Actual moving expenses incurred when moving from the subject property, but not to exceed one thousand one hundred dollars ($1,100).

(2) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed one thousand one hundred dollars ($1,100).

(d) The requirements of subdivision (c) constitute a minimum state standard. However, nothing in that subdivision shall be construed to prohibit any city, county, or city and county from requiring, by ordinance or charter provision, a subdivider to compensate any tenant, whose tenancy is terminated as the result of a condominium, community apartment project, or stock cooperative conversion, in amounts or by services which exceed those set forth in paragraphs (1) and (2) of that subdivision. If that requirement is imposed by any city, county, or city and county, a subdivider who meets the compensation requirements of the local ordinance or charter provision shall be deemed to satisfy the requirements of subdivision (c).

SEC. 360. Section 66503 of the Government Code is amended to read:

66503. The commission shall consist of 21 members as follows:

(a) Two members each from the City and County of San Francisco and the Counties of Contra Costa and San Mateo, and three members each from the Counties of Alameda and Santa Clara. With respect to the members from the City and County of San Francisco, the mayor shall appoint one member and the board of supervisors shall appoint one member. With respect to the members from Alameda, Contra Costa, San Mateo, and Santa Clara Counties, the city selection committee organized in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5, shall appoint one member and the board of supervisors shall appoint one member. The Mayor of the City of Oakland shall be self-appointed or shall appoint a member of the Oakland City Council to serve as the third member from the County of Alameda. The Mayor of the City of San Jose shall be self-appointed or shall appoint a member of the

San Jose City Council to serve as the third member from the County of Santa Clara.

(b) One member each from Marin, Napa, Solano, and Sonoma Counties. The city selection committee of these counties shall furnish to the board of supervisors the names of three nominees and the board of supervisors shall appoint one of the nominees to represent the county.

(c) One representative each appointed by the Association of Bay Area Governments and the San Francisco Bay Conservation and Development Commission. The representative appointed by the San Francisco Bay Conservation and Development Commission shall be a member of the commission and a resident of the City and County of San Francisco, and shall be approved by the Mayor of San Francisco.

(d) One representative, who shall be a nonvoting member, appointed by the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*.

(e) One representative each appointed by the United States Department of Transportation and Department of Housing and Urban Development. However, these representatives shall serve only if the agencies they represent are amenable to these appointments. These representatives shall be nonvoting members.

(f) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(g) No more than three members appointed pursuant to subdivisions (a), (b), and (c) shall be residents of the same county.

SEC. 361. Section 66521 of the Government Code is amended to read:

66521. (a) It is the intention of the Legislature that the federal government, the state, and local agencies in the region will participate in support of the commission. The Legislature further intends that financial support of the activities of the commission will be made available from federal, state, and local sources normally available for transportation and general planning purposes in the region.

(b) The commission and the ~~Business, Transportation and Housing~~ *Transportation* Agency shall negotiate contracts or agreements whereby federal-aid highway funds available for planning, and the necessary state matching funds from the State

Highway Account in the State Transportation Fund, may be made available for support of the activities of the commission insofar as they relate to highway, road, and street planning for the region.

(c) The commission shall also negotiate, either directly or through the Office of Planning and Research or other appropriate agency, with the United States Department of Housing and Urban Development for grants or contributions of federal funds which may be available to support the study and planning activities of the commission.

(d) The commission shall negotiate equitable agreements with the City and County of San Francisco, and other counties and cities within the region, the Association of Bay Area Governments, the San Francisco Bay Area Rapid Transit District, the Alameda-Contra Costa Transit District, and the Golden Gate Bridge, Highway and Transportation District for the contribution of funds or services for the general support of the activities of the commission and for required matching of federal funds as may be made available. Any county, city and county, or city may use its apportionments from the Motor Vehicle License Fee Account in the Transportation Tax Fund for these purposes.

SEC. 362. Section 66540.5 of the Government Code is amended to read:

66540.5. The authority shall have the authority to plan, manage, operate, and coordinate the emergency activities of all water transportation and related facilities within the bay area region, except those provided or owned by the Golden Gate Bridge, Highway and Transportation District. During a state of war emergency, a state of emergency, or a local emergency, as described in Section 8558, the authority, in cooperation with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the United States Coast Guard, the Federal Emergency Management Agency, and the Metropolitan Transportation Commission, shall coordinate the emergency activities for all water transportation services in the bay area region and, for such purposes, shall be known as the Bay Area Maritime Emergency Transportation Coordinator.

SEC. 363. Section 66540.32 of the Government Code is amended to read:

66540.32. (a) The authority shall create and adopt, on or before July 1, 2009, an emergency water transportation system

management plan for water transportation services in the bay area region in the event that bridges, highways, and other facilities are rendered wholly or significantly inoperable.

(b) (1) The authority shall create and adopt, on or before July 1, 2009, a transition plan to facilitate the transfer of existing public transportation ferry services within the bay area region to the authority pursuant to this title. In the preparation of the transition plan, priority shall be given to ensuring continuity in the programs, services, and activities of existing public transportation ferry services.

(2) The plan required by this subdivision shall include all of the following:

(A) A description of existing ferry services in the bay area region, as of January 1, 2008, that are to be transferred to the authority pursuant to Section 66540.11 and a description of any proposed changes to those services.

(B) A description of any proposed expansion of ferry services in the bay area region.

(C) An inventory of the ferry and ferry-related capital assets or leasehold interests, including, but not limited to, vessels, terminals, maintenance facilities, and existing or planned parking facilities or parking structures, and of the personnel, operating costs, and revenues of public agencies operating public transportation ferries and providing water transportation services as of January 1, 2008, and those facilities that are to be transferred, in whole or in part, to the authority pursuant to Section 66540.11.

(D) A description of those capital assets, leasehold interests, and personnel identified in subparagraph (C) that the authority proposes to be transferred pursuant to Section 66540.11.

(E) An operating plan that includes, at a minimum, an estimate of the costs to continue the ferry services described in subparagraph (A) for at least five years and a detailed description of current and historically available revenues and proposed sources of revenue to meet those anticipated costs. Further, the operating plan shall identify options for closing any projected deficits or for addressing increased cost inputs, such as fuel, for at least the five-year period.

(F) A description of the proposed services, duties, functions, responsibilities, and liabilities of the authority and those of agencies providing or proposed to provide water transportation services for the authority.

(G) To the extent the plan may include the transfer of assets or services from a local agency to the authority pursuant to Section 66540.11, that transfer shall be subject to negotiation and agreement by the local agency. The authority and the local agency shall negotiate and agree on fair terms, including just compensation, prior to any transfer authorized by this title.

(H) An initial five-year Capital Improvement Program (CIP) detailing how the authority and its local agency partners plan to support financing and completion of capital improvement projects, including, but not limited to, those described in subparagraph (C), that are required to support the operation of transferred ferry services. Priority shall be given to emergency response projects and those capital improvement projects for which a Notice of Determination pursuant to the California Environmental Quality Act has been filed and which further the expansion, efficiency, or effectiveness of the ferry system.

(I) A description of how existing and expanded water transportation services will provide seamless connections to other transit providers in the bay area region, including, but not limited to, a description of how the authority will coordinate with all local agencies to ensure optimal public transportation services, including supplemental bus services that existed on January 1, 2008, that support access to the ferry system for the immediate and surrounding communities.

(J) The date on which the ferry services are to be transferred to the authority.

(3) To the extent the plan required by this subdivision includes proposed changes to water transportation services or related facilities historically provided by the City of Vallejo or the City of Alameda, the proposed changes shall be consistent with that city's general plan, its redevelopment plans, and its development and disposition agreements for projects related to the provision of water transportation services. Those projects include, but are not limited to, the construction of parking facilities and transit transfer facilities within close proximity of a ferry terminal or the relocation of a ferry terminal.

(c) In developing the plans described in subdivisions (a) and (b), the authority shall cooperate to the fullest extent possible with the Metropolitan Transportation Commission, the ~~California Emergency Management Agency~~ *Office of Emergency Services*,

the Association of Bay Area Governments, and the San Francisco Bay Conservation and Development Commission, and shall, to the fullest extent possible, coordinate its planning with local agencies, including those local agencies that operated, or contracted for the operation of, public water transportation services as of the effective date of this title. To avoid duplication of work, the authority shall make maximum use of data and information available from the planning programs of the Metropolitan Transportation Commission, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Association of Bay Area Governments, the San Francisco Bay Conservation and Development Commission, the cities and counties in the San Francisco Bay area, and other public and private planning agencies. In addition, the authority shall consider both of the following:

(1) The San Francisco Bay Area Water Transit Implementation and Operations Plan adopted by the San Francisco Bay Area Water Transit Authority on July 10, 2003.

(2) Any other plan concerning water transportation within the bay area region developed or adopted by any general purpose local government or special district that operates or sponsors water transit, including, but not limited to, those water transportation services provided under agreement with a private operator.

(d) The authority shall prepare a specific transition plan for any transfer not anticipated by the transition plan required under subdivision (b).

(e) Prior to adopting the plans required by this section, the authority shall establish a process for taking public input on the plans in consultation with existing operators of public ferry services affected by the plans. The public input process shall include at least one public hearing conducted at least 60 days prior to the adoption of the plans in each city where an operational ferry facility existed as of January 1, 2008.

SEC. 364. Section 91550 of the Government Code is amended to read:

91550. There is in state government the California Industrial Development Financing Advisory Commission, consisting of five members, as follows:

(a) The Treasurer, who shall serve as chairperson.

(b) The Controller.

(c) The Director of Finance.

(d) The Secretary of ~~Business, Transportation and Housing~~ *Business, Consumer Services and Housing*.

(e) The Commissioner of ~~Corporations~~ *Business Oversight*.

Members of the commission may each designate a deputy or employee in his or her agency to act for him or her at all meetings of the commission. The first meeting shall be convened by the Treasurer.

SEC. 365. Section 99503 of the Government Code is amended to read:

99503. (a) (1) All state employees working under the jurisdiction of an agency secretary shall, within 30 days of traveling out of the country on official state business provide, to the secretary to whom they report, a memorandum detailing dates of the trip, countries and localities visited, a description of attendees of any official meetings or events, and the goals, outcomes, and followup expected from the trip. However, attendance at formal conferences may be described in more general detail, including dates, location, types of groups represented in the audience, and general topics covered during the course of the conference.

(2) Except as provided in paragraphs (3) and (4), state employees who do not work within an agency structure shall report the information as described in paragraph (1) to the Governor's office.

(3) Legislative employees shall provide the information as described in paragraph (1) to their respective Committee on Rules.

(4) State employees working under the jurisdiction of a constitutional officer shall provide the information as described in paragraph (1) to the constitutional officer to whom they report.

(5) Except as provided in paragraphs (3) and (4), state employees who undertake official state business that could impact California international trade or investment shall also provide a copy of the memorandum to the ~~Secretary of the Business, Transportation and Housing Agency~~ *Director of the Governor's Office of Business and Economic Development*.

(b) Travel out of the country on official state business when the Governor, a Member of the Legislature, or a constitutional officer, or all of these persons, is present, is exempt from the requirements of subdivision (a).

SEC. 366. Section 30.5 is added to the Harbors and Navigation Code, to read:

30.5. Whenever the term "Business, Transportation and Housing Agency" appears within the Harbors and Navigation Code, it shall refer to the Transportation Agency, and whenever the term "Secretary of Business, Transportation and Housing" appears within the Harbors and Navigation Code, it shall refer to the Secretary of Transportation.

SEC. 367. Section 31 of the Harbors and Navigation Code is repealed.

~~31. "Commission" means the Boating and Waterways Commission.~~

SEC. 368. Section 32 of the Harbors and Navigation Code is amended to read:

32. "Department" *or "Division"* means the ~~Department~~ *Division* of Boating and Waterways *in the Department of Parks and Recreation*.

SEC. 369. Section 33 of the Harbors and Navigation Code is amended to read:

33. "Director" *or "deputy director"* means the ~~Director~~ *Deputy Director* of Boating and Waterways.

SEC. 370. Section 50 of the Harbors and Navigation Code is amended to read:

50. *(a)* The Department of Harbors and Watercraft and its successor, the Department of Navigation and Ocean Development, *and the Department of Boating and Waterways* are continued in existence in the ~~Resources Agency~~ *Department of Parks and Recreation* as the ~~Department~~ *Division* of Boating and Waterways. The ~~Department~~ *Division* of Boating and Waterways is the successor to, and is vested with, the powers, functions, and jurisdiction of the following state departments and agencies as hereinafter specified:

~~(a)~~

(1) All of the powers, functions, and jurisdiction previously vested in the Division of Small Craft Harbors of the Department of Parks and Recreation.

~~(b)~~

(2) All of the powers, functions, and jurisdiction of the State Lands Commission with respect to the acquisition, construction, development, improvement, maintenance, and operation of small craft harbors.

~~(c)~~

(3) All of the powers, functions, and jurisdiction of the Department of Parks and Recreation with respect to boating facility planning, design, and construction, except as specifically provided with respect to boating trails in the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code) and in Article 2.6 (commencing with Section 68) of this chapter.

~~(d)~~

(4) All of the powers, functions, and jurisdiction of the Office of Architecture and Construction in the Department of General Services with respect to boating facility planning and design.

~~(e)~~

(5) All of the powers, functions, and jurisdiction of the Department of Water Resources with respect to beach erosion control.

~~(f)~~

(6) All of the policymaking and regulatory powers, functions, and jurisdiction of the Harbors and Watercraft Commission as to matters within the jurisdiction of the department.

(b) Regulations adopted by the former Department of Boating and Waterways shall remain in effect until revised or repealed by the Division of Boating and Waterways.

SEC. 371. Section 50.1 of the Harbors and Navigation Code is amended to read:

50.1. *(a)* Whenever the term "Division of Small Craft Harbors" or the term "Small Craft Harbors Commission" *or the term "Department of Boating and Waterways"* is used in any provision of law, it shall be construed as referring to the ~~Department~~ *Division* of Boating and Waterways.

~~Whenever,~~

(b) Whenever, by any statute now in force or that may be hereafter enacted, any power, function, or jurisdiction, as specified in Section 50, is imposed or conferred upon the State Lands Commission, the Department of Parks and Recreation, the Office of Architecture and Construction in the Department of General Services, or the Department of Water Resources, such power, function, or jurisdiction shall be deemed to be imposed or conferred upon the ~~Department~~ *Division* of Boating and Waterways.

~~Nothing in this~~

(c) This section ~~or in~~ *and* this code ~~shall~~ *do not* divest the State Lands Commission of jurisdiction with respect to the leasing of

state lands, including state lands used for small craft harbors, swamps and overflowed lands, or tide and submerged lands, for the extraction and removal of oil and gas and other minerals.

SEC. 372. Section 50.2 of the Harbors and Navigation Code is amended to read:

50.2. The ~~department~~ *division* shall be administered by an executive officer known as the *Deputy* Director of Boating and Waterways. *Any reference to the Director of Boating and Waterways shall be deemed to refer to the Deputy Director of Boating and Waterways.* The *deputy* director shall be appointed by and hold office at the pleasure of the Governor and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. The appointment of any *deputy* director appointed by the Governor shall be subject to confirmation by the Senate.

SEC. 373. Section 65.4 of the Harbors and Navigation Code is repealed.

~~65.4. Any plans for construction of beach erosion control works which may in any way affect recreational beaches under the ownership or control of the Department of Parks and Recreation shall be subject to approval by the Department of Parks and Recreation.~~

SEC. 374. Section 81.8 of the Harbors and Navigation Code, as added by Section 2 of Chapter 136 of the Statutes of 2012, is amended to read:

81.8. The *deputy* director shall act as the secretary of the commission.

SEC. 375. Section 85.2 of the Harbors and Navigation Code is amended to read:

85.2. (a) All moneys in the Harbors and Watercraft Revolving Fund are available, upon appropriation by the Legislature, for expenditure by the ~~department~~ *Department of Parks and Recreation* for boating facilities development, boating safety, and boating regulation programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed, and constructed by the ~~department~~ *division*, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state.

(b) (1) The money in the fund is also available, upon appropriation by the Legislature, ~~to the Department of Parks and~~

~~Recreation~~ for the operation and maintenance of units of the state park system that have boating-related activities. Funds appropriated ~~to the Department of Parks and Recreation~~ may also be used for boating safety and enforcement programs ~~for waters under its jurisdiction~~.

(2) The Department of Parks and Recreation shall submit to the Legislature, on or before January 1 of each year, a report describing the allocation and expenditure of funds made available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund and from the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year. The report shall list the special project or use, project location, amount of money allocated or expended, the source of funds allocated or expended, and the relation of the project or use to boating activities.

(c) The money in the fund shall also be available, upon appropriation by the Legislature, to the State Water Resources Control Board for boating-related water quality regulatory activities.

(d) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Fish and Game for activities addressing the boating-related spread of invasive species.

(e) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Food and Agriculture for activities addressing the boating-related spread of invasive species.

SEC. 376. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the ~~Business, Transportation and Housing~~ *Transportation* Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in the Bay of San Francisco, San Pablo, Suisun, or Monterey, one of whom shall be engaged

in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, a public member appointed shall not have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Members appointed pursuant to subdivision (a) shall be appointed with staggered terms as follows:

(1) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, except that the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (1) of subdivision (a) shall

be appointed to a term expiring on December 31, 2014, and the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (2) of subdivision (a) shall be appointed to a term expiring on December 31, 2014.

(2) Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively.

(3) A person shall not be appointed for more than two terms.

(4) Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

(d) The Secretary of ~~Business, Transportation and Housing~~ *Transportation* shall serve as an ex officio member of the board who, without vote, may exercise all other privileges of a member of the board.

SEC. 377. Section 1596.867 of the Health and Safety Code is amended to read:

1596.867. (a) All child day care facilities, as defined in Section 1596.750, shall include an Earthquake Preparedness Checklist as an attachment to the disaster plan prescribed by Section 1596.95 or 1597.54. However, the Earthquake Preparedness Checklist shall not be considered a requirement for obtaining or maintaining a license for a child day care center or family day care home. The Earthquake Preparedness Checklist shall be made accessible to the public at the child day care center, or family day care home. The licensing agency shall not monitor or be responsible for enforcing any provision contained in the Earthquake Preparedness Checklist or ensuring that the checklist is made accessible to the public.

(b) The Earthquake Preparedness Checklist shall not exceed two typewritten pages and the department may add to or delete from the list, as it deems appropriate. The checklist may include, but not be limited to, all of the procedures that are listed in the following proposed Earthquake Preparedness Checklist. A licensee of a child day care center or family day care home shall have the option of selecting from the checklist the procedures, if any, the

licensee chooses to use in the child day care center or family day care home.

Earthquake Preparedness Checklist (EPC)*

Eliminate potential hazards in classrooms and throughout the site:

_____ Bolt bookcases in high traffic areas securely to wall studs
_____ Move heavy books and items from high to low shelves
_____ Secure and latch filing cabinets
_____ Secure cabinets in high traffic areas with child safety latches
_____ Secure aquariums, computers, typewriters, TV-VCR equipment to surfaces, such as by using Velcro tabs
_____ Make provisions for securing rolling portable items such as TV-VCRs, pianos, refrigerators
_____ Move children's activities and play areas away from windows, or protect windows with blinds or adhesive plastic sheeting
_____ Secure water heater to wall using plumber's tape
_____ Assess and determine possible escape routes

Establish a coordinated response plan involving all of the following:

Involving children:

_____ Teach children about earthquakes and what to do (see resource list below)
_____ Practice "duck, cover, and hold" earthquake drills under tables or desks no less than 4 times a year

Involving parents:

_____ Post, or make available to parents, copies of the school earthquake safety plan (including procedures for reuniting parents or alternate guardians with children, location of planned evacuation site, method for leaving messages and communicating)
_____ Enlist parent and community resource assistance in securing emergency supplies or safeguarding the child day care site:

_____ store a 3-day supply of nonperishable food (including juice, canned food items, snacks, and infant formula)

_____ store a 3-day supply of water and juice

_____ store food and water in an accessible location, such as portable plastic storage containers

_____ store other emergency supplies such as flashlights, a radio with extra batteries, heavy gloves, trash bags, and tools

_____ maintain a complete, up-to-date listing of children, emergency numbers, and contact people for each classroom stored with emergency supplies

Involving child day care personnel and local emergency agencies:

_____ Identify and assign individual responsibilities for staff following an earthquake (including accounting for and evacuating children, injury control, damage assessment)

_____ Involve and train all staff members about the earthquake safety plan, including location and procedure for turning off utilities and gas

_____ Contact nearby agencies (including police, fire, Red Cross, and local government) for information and materials in developing the child day care center earthquake safety plan

*For more free resources contact:

(1) Federal Emergency Management Agency (FEMA)

(2) ~~California Emergency Management Agency (Cal EMA)~~ *Office of Emergency Services*

(3) Red Cross

(c) Nothing in this section shall be construed to prevent the adoption or enforcement of earthquake safety standards for child day care facilities by local ordinance.

(d) Nothing in this section shall be construed to prevent the department from adopting or enforcing regulations on earthquake safety or making earthquake safety drills mandatory.

SEC. 378. Section 1797.132 of the Health and Safety Code is amended to read:

1797.132. An Interdepartmental Committee on Emergency Medical Services is hereby established. This committee shall advise

the authority on the coordination and integration of all state activities concerning emergency medical services. The committee shall include a representative from each of the following state agencies and departments: the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Department of the California Highway Patrol, the Department of Motor Vehicles, a representative of the administrator of the California Traffic Safety Program as provided by Chapter 5 (commencing with Section 2900) of Division 2 of the Vehicle Code, the Medical Board of California, the State Department of *Public* Health ~~Services~~, the Board of Registered Nursing, the State Department of Education, the National Guard, the Office of Statewide Health Planning and Development, the State Fire Marshal, the California Conference of Local Health Officers, the Department of Forestry and Fire Protection, the Chancellor's Office of the California Community Colleges, and the Department of General Services.

SEC. 379. Section 1797.150 of the Health and Safety Code is amended to read:

1797.150. In cooperation with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the authority shall respond to any medical disaster by mobilizing and coordinating emergency medical services mutual aid resources to mitigate health problems.

SEC. 380. Section 1797.151 of the Health and Safety Code is amended to read:

1797.151. The authority shall coordinate, through local EMS agencies, medical and hospital disaster preparedness with other local, state, and federal agencies and departments having a responsibility relating to disaster response, and shall assist the ~~California Emergency Management Agency~~ *Office of Emergency Services* in the preparation of the emergency medical services component of the State Emergency Plan as defined in Section 8560 of the Government Code.

SEC. 381. Section 1797.152 of the Health and Safety Code is amended to read:

1797.152. (a) The director and the ~~Director of~~ *State Public* Health ~~Services~~ *Officer* may jointly appoint a regional disaster medical and health coordinator for each mutual aid region of the state. A regional disaster medical and health coordinator shall be either a county health officer, a county coordinator of emergency

services, an administrator of a local EMS agency, or a medical director of a local EMS agency. Appointees shall be chosen from among persons nominated by a majority vote of the local health officers in a mutual aid region.

(b) In the event of a major disaster which results in a proclamation of emergency by the Governor, and in the need to deliver medical or public and environmental health mutual aid to the area affected by the disaster, at the request of the authority, the State Department of *Public* Health ~~Services~~, or the ~~California Emergency Management Agency~~ *Office of Emergency Services*, a regional disaster medical and health coordinator in a region unaffected by the disaster may coordinate the acquisition of requested mutual aid resources from the jurisdictions in the region.

(c) A regional disaster medical and health coordinator may develop plans for the provision of medical or public health mutual aid among the counties in the region.

(d) No person may be required to serve as a regional disaster medical and health coordinator. No state compensation shall be paid for a regional disaster medical and health coordinator position, except as determined appropriate by the state, if funds become available.

SEC. 382. Section 1797.153 of the Health and Safety Code is amended to read:

1797.153. (a) In each operational area the county health officer and the local EMS agency administrator may act jointly as the medical health operational area coordinator (MHOAC). If the county health officer and the local EMS agency administrator are unable to fulfill the duties of the MHOAC they may jointly appoint another individual to fulfill these responsibilities. If an operational area has a MHOAC, the MHOAC in cooperation with the county office of emergency services, local public health department, the local office of environmental health, the local department of mental health, the local EMS agency, the local fire department, the regional disaster and medical health coordinator (RDMHC), and the regional office of the ~~California Emergency Management Agency~~ *Office of Emergency Services*, shall be responsible for ensuring the development of a medical and health disaster plan for the operational area. The medical and disaster plans shall follow the Standard Emergency Management System and National Incident Management System. The MHOAC shall recommend to

the operational area coordinator of the ~~California Emergency Management Agency~~ *Office of Emergency Services* a medical and health disaster plan for the provision of medical and health mutual aid within the operational area.

(b) For purposes of this section, "operational area" has the same meaning as that term is defined in subdivision (b) of Section 8559 of the Government Code.

(c) The medical and health disaster plan shall include preparedness, response, recovery, and mitigation functions consistent with the State Emergency Plan, as established under Sections 8559 and 8560 of the Government Code, and, at a minimum, the medical and health disaster plan, policy, and procedures shall include all of the following:

(1) Assessment of immediate medical needs.

(2) Coordination of disaster medical and health resources.

(3) Coordination of patient distribution and medical evaluations.

(4) Coordination with inpatient and emergency care providers.

(5) Coordination of out-of-hospital medical care providers.

(6) Coordination and integration with fire agencies personnel, resources, and emergency fire prehospital medical services.

(7) Coordination of providers of nonfire based prehospital emergency medical services.

(8) Coordination of the establishment of temporary field treatment sites.

(9) Health surveillance and epidemiological analyses of community health status.

(10) Assurance of food safety.

(11) Management of exposure to hazardous agents.

(12) Provision or coordination of mental health services.

(13) Provision of medical and health public information protective action recommendations.

(14) Provision or coordination of vector control services.

(15) Assurance of drinking water safety.

(16) Assurance of the safe management of liquid, solid, and hazardous wastes.

(17) Investigation and control of communicable disease.

(d) In the event of a local, state, or federal declaration of emergency, the MHOAC shall assist the agency operational area coordinator in the coordination of medical and health disaster resources within the operational area, and be the point of contact

in that operational area, for coordination with the RDMHC, the agency, the regional office of the agency, the State Department of Public Health, and the authority.

(e) Nothing in this section shall be construed to revoke or alter the current authority for disaster management provided under either of the following:

(1) The State Emergency Plan established pursuant to Section 8560 of the Government Code.

(2) The California standardized emergency management system established pursuant to Section 8607 of the Government Code.

SEC. 383. Section 11998.1 of the Health and Safety Code is amended to read:

11998.1. It is the intent of the Legislature that the following long-term five-year goals be achieved:

(a) With regard to education and prevention of drug and alcohol abuse programs, the following goals:

(1) Drug and alcohol abuse education has been included within the mandatory curriculum in kindergarten and grades 1 to 12, inclusive, in every public school in California.

(2) Basic training on how to recognize, and understand what to do about, drug and alcohol abuse has been provided to administrators and all teachers of kindergarten and grades 1 to 12, inclusive.

(3) All school counselors and school nurses have received comprehensive drug and alcohol abuse training.

(4) Each school district with kindergarten and grades 1 to 12, inclusive, has appointed a drug and alcohol abuse advisory team of school administrators, teachers, counselors, students, parents, community representatives, and health care professionals, all of whom have expertise in drug and alcohol abuse prevention. The team coordinates with and receives consultation from the county alcohol and drug program administrators.

(5) Every school board member has received basic drug and alcohol abuse information.

(6) Each school district has a drug and alcohol abuse specialist to assist the individual schools.

(7) Each school in grades 7 to 12, inclusive, has student peer group drug and alcohol abuse programs.

(8) Every school district with kindergarten and grades 1 to 12, inclusive, has updated written drug and alcohol abuse policies and

procedures including disciplinary procedures which will be given to every school employee, every student, and every parent.

(9) The California State University and the University of California have evaluated and, if feasible, established educational programs and degrees in the area of drug and alcohol abuse.

(10) Every school district with kindergarten and grades 1 to 12, inclusive, has an established parent teachers group with drug and alcohol abuse prevention goals.

(11) Every school district has instituted a drug and alcohol abuse education program for parents.

(12) Drug and alcohol abuse training has been imposed as a condition for teacher credentialing and license renewal, and knowledge on the issue is measured on the California Basic Education Skills Test.

(13) Drug and alcohol abuse knowledge has been established as a component on standardized competency tests as a requirement for graduation.

(14) Every school district has established a parent support group.

(15) Every school district has instituted policies that address the special needs of children who have been rehabilitated for drug or alcohol abuse problems and who are reentering school. These policies shall consider the loss of schooltime, the loss of academic credits, and the sociological problems associated with drug and alcohol abuse, its rehabilitation, and the educational delay it causes.

(16) The number of drug and alcohol abuse related incidents on school grounds has decreased by 20 percent.

(b) With regard to community programs, the following goals:

(1) Every community-based social service organization that receives state and local financial assistance has drug and alcohol abuse information available for clients.

(2) All neighborhood watch, business watch, and community conflict resolution programs have included drug and alcohol abuse prevention efforts.

(3) All community-based programs that serve schoolaged children have staff trained in drug and alcohol abuse and give a clear, drug- and alcohol-free message.

(c) With regard to drug and alcohol abuse programs of the media, the following goals:

(1) The state has established a comprehensive media campaign that involves all facets of the drug and alcohol abuse problem,

including treatment, education, prevention, and intervention that will result in increasing the public's knowledge and awareness of the detrimental effects of alcohol and drug use, reducing the use of alcohol and drugs, and increasing healthy lifestyle choices.

(2) The department on a statewide basis, and the county board of supervisors or its designees at the local level, have:

(A) Assisted the entertainment industry in identifying ways to use the entertainment industry effectively to encourage lifestyles free of substance abuse.

(B) Assisted the manufacturers of drug and alcohol products in identifying ways to use product advertising effectively to discourage substance abuse.

(C) Assisted television stations in identifying ways to use television programming effectively to encourage lifestyles free of substance abuse.

(3) A statewide cooperative fundraising program with recording artists and the entertainment industry has been encouraged to fund drug and alcohol abuse prevention efforts in the state.

(d) With regard to drug and alcohol abuse health care programs, the following goals:

(1) The number of drug and alcohol abuse-related medical emergencies has decreased by 4 percent per year.

(2) All general acute care hospitals and AIDS medical service providers have provided information to their patients on drug and alcohol abuse.

(3) The Medical Board of California, the Psychology Examining Committee, the Board of Registered Nursing, and the Board of Behavioral Science Examiners have developed and implemented the guidelines or regulations requiring drug and alcohol abuse training for their licensees, and have developed methods of providing training for those professionals.

(e) With regard to private sector drug and alcohol abuse programs, the following goals:

(1) A significant percentage of businesses in the private sector have developed personnel policies that discourage drug and alcohol abuse and encourage supervision, training, and employee education.

(2) Noteworthy and publicly recognized figures and private industry have been encouraged to sponsor fundraising events for drug and alcohol abuse prevention.

(3) Every public or private athletic team has been encouraged to establish policies forbidding drug and alcohol abuse.

(4) The private sector has established personnel policies that discourage drug and alcohol abuse but encourage treatment for those employees who require this assistance.

(f) With regard to local government drug and alcohol abuse programs, the following goals:

(1) Every county has a five-year master plan to eliminate drug and alcohol abuse developed jointly by the county-designated alcohol and drug program administrators, reviewed jointly by the advisory boards set forth in paragraph (2), and approved by the board of supervisors. For those counties in which the alcohol and drug programs are jointly administered, the administrator shall develop the five-year master plan. To the degree possible, all existing local plans relating to drug or alcohol abuse shall be incorporated into the master plan.

(2) Every county has an advisory board on alcohol problems and an advisory board on drug programs. The membership of these advisory boards is representative of the county's population and is geographically balanced. To the maximum extent possible, the county advisory board on alcohol problems and the county advisory board on drug programs will have representatives of the following:

(A) Law enforcement.

(B) Education.

(C) The treatment and recovery community, including a representative with expertise in AIDS treatment services.

(D) Judiciary.

(E) Students.

(F) Parents.

(G) Private industry.

(H) Other community organizations involved in drug and alcohol services.

(I) A representative of organized labor responsible for the provision of Employee Assistance Program services.

If any of these areas is not represented on the advisory bodies, the administrator designated in paragraph (1) shall solicit input from a representative of the nonrepresented area prior to the development of a master plan pursuant to paragraph (1).

(3) Every county public social service agency has established policies that discourage drug and alcohol abuse and encourage treatment and recovery services when necessary.

(4) Every local unit of government has an employee assistance program that addresses drug and alcohol abuse problems.

(5) Every local unit of government has considered the potential for drug and alcohol abuse problems when developing zoning ordinances and issuing conditional use permits.

(6) Every county master plan includes treatment and recovery services.

(6.5) Every county master plan includes specialized provisions to ensure optimum alcohol and drug abuse service delivery for handicapped and disabled persons.

(7) Every local unit of government has been encouraged to establish an employee assistance program that includes the treatment of drug and alcohol abuse-related programs.

(8) Every local governmental social service provider has established a referral system under which clients with drug and alcohol abuse problems can be referred for treatment.

(9) Every county drug and alcohol abuse treatment or recovery program that serves women gives priority for services to pregnant women.

(10) Every alcohol and drug abuse program provides AIDS information to all program participants.

(g) With regard to state and federal government drug and alcohol abuse programs, the following goals:

(1) The Department of Alcoholic Beverage Control has informed all alcohol retailers of the laws governing liquor sales and has provided training available to all personnel selling alcoholic beverages, on identifying and handling minors attempting to purchase alcohol.

(2) The ~~California Emergency Management Agency~~ *Office of Emergency Services* has required all applicants for crime prevention and juvenile justice and delinquency prevention funds to include drug and alcohol abuse prevention efforts in their programs.

(3) All county applications for direct or indirect drug and alcohol services funding from the department include a prevention component.

(4) The Superintendent of Public Instruction has employed drug and alcohol abuse school prevention specialists and assisted school districts with the implementation of prevention programs.

(5) The State Department of Health Care Services has staff trained in drug and alcohol abuse prevention who can assist local mental health programs with prevention efforts.

(6) The Department of the California Highway Patrol, as permitted by the United States Constitution, has established routine statewide sobriety checkpoints for driving while under the influence.

(7) The Department of Corrections and the Department of the Youth Authority have provided drug and alcohol abuse education and prevention services for all inmates, wards, and parolees. Both departments have provided drug and alcohol abuse treatment services for any inmate, ward, or parolee determined to be in need of these services, or who personally requests these services.

(8) The Department of Motor Vehicles has distributed prevention materials with each driver's license or certificate of renewal and each vehicle registration renewal mailed by the Department of Motor Vehicles.

(9) Federal prevention programs have been encouraged to follow the master plan.

(10) State licensing and program regulations for drug and alcohol abuse treatment programs have been consolidated and administered by one state agency.

(11) State treatment funding priorities have been included to specially recognize the multiple diagnosed client who would be eligible for services from more than one state agency.

(12) Every state agency has formalized employee assistance programs that include the treatment of drug and alcohol abuse-related problems.

(13) The state master plan includes specialized provisions to ensure optimum drug and alcohol abuse service delivery for handicapped and disabled persons.

(h) With regard to private sector direct service providers, the following goals:

(1) Drinking drivers programs have provided clear measurements of successful completion of the program to the courts for each court-ordered client.

(2) Sufficient drug and alcohol treatment and recovery services exist throughout the state to meet all clients' immediate and long-range needs.

(3) Each county to the extent possible provides localized alcohol and drug treatment and recovery services designed for individuals seeking assistance for polydrug abuse.

(4) Adequate nonresidential and residential services are available statewide for juveniles in need of alcohol or drug abuse services.

(5) Each provider of alcohol or drug services has been certified by the state.

(6) Drug and alcohol abuse treatment providers provide general AIDS information during treatment.

(i) With regard to supply regulation and reduction in conjunction with drug and alcohol abuse, the following goals:

(1) The California National Guard supports federal, state, and local drug enforcement agencies in counternarcotic operations as permitted by applicable laws and regulations.

(2) Each county has a drug and alcohol abuse enforcement team, designated by the board of supervisors. This team includes all components of the criminal justice system. This team shall be responsible to the board of supervisors, shall coordinate with the drug and alcohol abuse advisory board and the county on all criminal justice matters relating to drug and alcohol abuse, and shall coordinate, and actively participate, with the county alcohol and drug program administrators throughout the development and implementation of the five-year master plan.

(3) The ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Youth and Adult Correctional Agency, the Department of the California Highway Patrol, the Office of Traffic Safety, and the Department of Justice have established a state level drug and alcohol abuse enforcement team that includes representatives from all facets of criminal justice. The lead agency for the enforcement team has been designated by the Governor. This team advises the state and assists the local teams.

(4) The ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Youth and Adult Correctional Agency, and the Department of Justice have, as a priority when determining training subjects, prevention seminars on drug and alcohol abuse. The Commission on Peace Officer Standards and Training has, as

a priority, when determining training subjects, drug and alcohol enforcement.

(5) The Department of the California Highway Patrol, as permitted by the United States Constitution, will, in conjunction with establishing sobriety checkpoints statewide, assist local law enforcement agencies with the establishment of local programs.

(6) Counties with more than 10 superior court judgeships have established programs under which drug cases receive swift prosecution by well-trained prosecutors before judges who are experienced in the handling of drug cases.

(7) The courts, when determining bail eligibility and the amount of bail for persons suspected of a crime involving a controlled substance, shall consider the quantity of the substance involved when measuring the danger to society if the suspect is released.

(8) Drunk driving jails have been established that provide offender education and treatment during incarceration.

(9) All probation and parole officers have received drug and alcohol abuse training, including particular training on drug recognition.

(10) All parolees and persons on probation with a criminal history that involves drug or alcohol abuse have conditions of parole or probation that prohibit drug and alcohol abuse.

(11) The Judicial Council has provided training on drug and alcohol abuse for the judges.

(12) The courts, when sentencing offenders convicted of selling drugs, consider "street value" of the drugs involved in the underlying crime.

(13) Judges have been encouraged to include drug and alcohol abuse treatment and prevention services in sentences for all offenders. Judges are requiring, as a condition of sentencing, drug and alcohol abuse education and treatment services for all persons convicted of driving under the influence of alcohol or drugs.

(14) Juvenile halls and jails provide clients with information on drug and alcohol abuse.

(15) The estimated number of clandestine labs operating in California has decreased by 10 percent per year.

(16) Each local law enforcement agency has developed, with the schools, protocol on responding to school drug and alcohol abuse problems.

(17) Every county has instituted a mandatory driving-under-the-influence presentence offender evaluation program.

SEC. 384. Section 13071 of the Health and Safety Code is amended to read:

13071. The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall establish and administer a program, which shall be denominated the FIRESCOPE Program (FIrefighting RESources of California Organized for Potential Emergencies), to maintain and enhance the efficiency and effectiveness of managing multiagency firefighting resources in responding to an incident. The program shall be based on the concepts and components developed or under development by the Firescope project chartered by the United States Congress in 1972. The program shall provide for the research, development, and implementation of technologies, facilities, and procedures to assist state and local fire agencies in the better utilization and coordination of firefighting resources in responding to incidents.

SEC. 385. Section 13073 of the Health and Safety Code is amended to read:

13073. The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall carry out this chapter in cooperation with the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, and with the advice of the Fire and Rescue Service Advisory Committee/FIRESCOPE Board of Directors within the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

SEC. 386. Section 13140.5 of the Health and Safety Code is amended to read:

13140.5. The board shall be composed of the following voting members: the State Fire Marshal, the Chief Deputy Director of the Department of Forestry and Fire Protection who is not the State Fire Marshal, the ~~Secretary of Emergency Management~~ *Director of Emergency Services*, the Chairperson of the California Fire Fighter Joint Apprenticeship Program, one representative of the insurance industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government.

The following members shall be appointed by the Governor: one representative of the insurance industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government. Each member appointed shall be a resident of this state. The volunteer firefighter shall be selected from a list of names submitted by the California State Firefighters Association. One fire chief shall be selected from a list of names submitted by the California Fire Chiefs' Association; one fire chief shall be selected from a list of names submitted by the Fire Districts Association of California; and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. One fire service labor representative shall be selected from a list of names submitted by the California Labor Federation; one fire service labor representative shall be selected from a list of names submitted by the California Professional Firefighters; one fire service labor representative shall be selected from a list of names submitted by the International Association of Fire Fighters; one fire service labor representative shall be selected from a list of names submitted by the California Department of Forestry Firefighters; and one fire service labor representative shall be selected from a list of names submitted by the California State Firefighters Association. The city government representative shall be selected from elected or appointed city chief administrative officers or elected city mayors or council members. The fire district representative shall be selected from elected or appointed directors of fire districts. The county government representative shall be selected from elected or appointed county chief administrative officers or elected county supervisors. The appointed members shall be appointed for a term of four years. Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.

SEC. 387. Section 13143.9 of the Health and Safety Code is amended to read:

13143.9. (a) The State Fire Marshal shall, in carrying out Section 13143, prepare, adopt, and submit building standards and other fire and life safety regulations for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division

13 establishing minimum requirements for the storage, handling, and use of hazardous materials, as defined, in Article 9 of the 1988 Uniform Fire Code, and any subsequent editions, published by the Western Fire Chiefs Association and the International Conference of Building Officials. The State Fire Marshal shall seek the advice of the ~~California Emergency Management Agency~~ *Office of Emergency Services* in establishing these requirements. This section does not prohibit a city, county, or district from adopting an ordinance, resolution, or regulation imposing stricter or more stringent requirements than a standard adopted pursuant to this section.

(b) A business which files the annual inventory form in compliance with Chapter 6.95 (commencing with Section 25500) of Division 20, including the addendum adopted pursuant to Section 25503.9, shall be deemed to have met the requirements of subdivision (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant to this section.

(c) A business which is not required to file a hazardous materials inventory form pursuant to Section 25509 but which is required by the local fire chief to comply with subdivision (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant to this section, shall, notwithstanding Chapter 6.95 (commencing with Section 25500) of Division 20, file the inventory form adopted pursuant to Section 25503.3 and the addendum adopted pursuant to Section 25503.9 with the local fire chief for purposes of complying with this requirement, if determined to be necessary by the fire chief.

SEC. 388. Section 18603 of the Health and Safety Code is amended to read:

18603. (a) In every park there shall be a person available by telephonic or like means, including telephones, cellular phones, telephone answering machines, answering services or pagers, or in person who shall be responsible for, and who shall reasonably respond in a timely manner to emergencies concerning, the operation and maintenance of the park. In every park with 50 or more units, that person or his or her designee shall reside in the park, have knowledge of emergency procedures relative to utility systems and common facilities under the ownership and control of the owner of the park, and shall be familiar with the emergency preparedness plans for the park.

(b) (1) On or before September 1, 2010, an owner or operator of an existing park shall adopt an emergency preparedness plan.

(2) For a park constructed after September 1, 2010, an owner or operator of a park shall adopt a plan in accordance with this section prior to the issuance of the permit to operate.

(3) An owner or operator may comply with paragraph (1) by either of the following methods:

(A) Adopting the emergency procedures and plans approved by the Standardized Emergency Management System Advisory Board on November 21, 1997, entitled "Emergency Plans for Mobilehome Parks," and compiled by the ~~California Emergency Management Agency~~ *Office of Emergency Services* in compliance with the Governor's Executive Order W-156-97, or any subsequent version.

(B) Adopting a plan that is developed by the park management and is comparable to the procedures and plans specified in subparagraph (A).

(c) For an existing park, and in the case of a park constructed after September 10, 2010, prior to the issuance of the permit to operate, an owner or operator of a park shall do both of the following:

(1) Post notice of the emergency preparedness plan in the park clubhouse or in another conspicuous area within the mobilehome park.

(2) On or before September 10, 2010, provide notice of how to access the plan and information on individual emergency preparedness information from the appropriate state or local agencies, including, but not limited to, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, to all existing residents and, upon approval of tenancy, for all new residents thereafter. This may be accomplished in a manner that includes, but is not limited to, distribution of materials and posting notice of the plan or information on how to access the plan via the Internet.

(d) An enforcement agency shall determine whether park management is in compliance with this section. The agency may ascertain compliance by receipt of a copy of the plan during site inspections conducted in response to complaints of alleged violations, or for any other reason.

(e) Notwithstanding any other provision of this part, a violation of this section shall constitute an unreasonable risk to life, health, or safety and shall be corrected by park management within 60 days of notice of the violation.

SEC. 389. Section 18901 of the Health and Safety Code is amended to read:

18901. (a) This part shall be known and may be cited as the California Building Standards Law.

(b) The California Building Standards Commission shall continue within the ~~State and Consumer Services Agency~~ *Department of General Services*.

SEC. 390. Section 18917.5 of the Health and Safety Code is amended to read:

18917.5. "Secretary" means the Secretary of ~~the State and Consumer Services Agency~~ *Government Operations*.

SEC. 391. Section 18920 of the Health and Safety Code is amended to read:

18920. There is continued in existence in the ~~State and Consumer Services~~ *Government Operations* Agency a California Building Standards Commission consisting of the Secretary of ~~State and Consumer Services Agency,~~ *Government Operations* and 10 members appointed by the Governor subject to confirmation by the Senate.

SEC. 392. Section 18922 of the Health and Safety Code is amended to read:

18922. The Secretary of ~~the State and Consumer Services Agency~~ *Government Operations* or the secretary's representative shall serve as the chair of the commission. The commission shall elect a vice chair annually from among its members.

SEC. 393. Section 25169.7 of the Health and Safety Code is amended to read:

25169.7. Except as specified otherwise in subdivision (b), on and after July 1, 2003, all of the following requirements, including any regulations adopted by the department pursuant to Section 25169.8, shall apply to any person handling any hazardous waste of concern:

(a) (1) If a hazardous waste transporter or the owner or operator of a hazardous waste facility discovers that a hazardous waste of concern is missing during transportation or storage, and the amount of waste missing equals or exceeds the reportable quantity specified

in the regulations adopted pursuant to Section 25169.6, the hazardous waste transporter or the owner or operator shall immediately, as specified in the regulations adopted by the department, provide a verbal notification to the department and report the discrepancy to the department in writing by letter within five days after the discovery. The transporter or the owner or operator shall also comply with the applicable manifest discrepancy reporting requirements specified in the regulations adopted by the department pursuant to this chapter.

(2) Within 24 hours after receiving a notification of a missing hazardous waste of concern pursuant to paragraph (1), the department shall make a preliminary determination whether there is a potential risk to public safety. If, after making that preliminary determination, or at any time thereafter, the department determines the missing hazardous waste of concern presents a significant potential risk to public safety from its use in a terrorist or other criminal act, the department shall notify the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the Department of the California Highway Patrol.

(3) The Department of the California Highway Patrol may enter and inspect any hazardous waste facility at the department's request to perform an investigation of any hazardous waste that the department determines may be missing.

(b) (1) Notwithstanding Section 25200.4, any person applying for a hazardous waste facilities permit or other grant of authorization to use and operate a hazardous waste facility that would handle hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(2) On or before January 1, 2004, and at any time upon the request of the department, any person owning or operating a hazardous waste facility that handles any hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(3) (A) Except as provided in subparagraph (B), on and after January 1, 2004, any person applying for registration as a hazardous waste transporter who will transport hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(B) Subparagraph (A) does not apply to a transporter who has submitted a disclosure statement to the department within the two-year period immediately preceding the application for registration, unless there has been a change in the information required to be contained in the disclosure statement or the department requests the transporter to submit a disclosure statement.

(4) At any time upon the request of the department, any registered hazardous waste transporter who transports any hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(5) Whenever any change pertaining to the information required to be contained in a disclosure statement filed pursuant to paragraphs (1) to (4), inclusive, occurs after the date of the filing of the disclosure statement, the transporter or the facility owner or operator shall provide the updated information in writing to the department within 30 days of the change.

(6) On or before 180 days after receiving a disclosure statement pursuant to this subdivision, the department shall conduct a background check, as defined in subdivision (a) of Section 25169.5.

(7) This subdivision does not apply to any federal, state, or local agency or any person operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption.

SEC. 394. Section 25197.2 of the Health and Safety Code is amended to read:

25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:

(1) The Department of Transportation.

(2) The Department of Industrial Relations.

(3) The Department of Food and Agriculture.

(4) The State Water Resources Control Board.

(5) The State Air Resources Board.

(6) The Department of the California Highway Patrol.

(7) The Office of the State Fire Marshal in the Department of Forestry and Fire Protection.

(8) The California Integrated Waste Management Board.

(9) The Department of Fish and Game.

(10) The ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(11) The Department of Toxic Substances Control.

(12) The Attorney General.

(13) The Department of Pesticide Regulation.

(b) The director, or the director's designee, shall direct and coordinate the activities of the Hazardous Waste Strike Force.

(c) The Hazardous Waste Strike Force shall do all of the following:

(1) Recommend standardized programs among the agencies represented on the Hazardous Waste Strike Force for the purposes of uniformly enforcing state hazardous waste statutes and regulations and reporting violators of these statutes and regulations.

(2) Recommend programs to publicize and improve the statewide telephone number established pursuant to paragraph (5) of subdivision (b) of Section 25197.1.

(3) Recommend local and regional programs to report information concerning violations of this chapter and any other hazardous waste statutes and regulations.

SEC. 395. Section 25210.6 of the Health and Safety Code is amended to read:

25210.6. (a) On or before December 31, 2005, the department shall adopt regulations specifying the best management practices for a person managing perchlorate materials. These practices may include, but are not limited to, all of the following:

(1) Procedures for documenting the amount of perchlorate materials managed by the facility.

(2) Management practices necessary to prevent releases of perchlorate materials, including, but not limited to, containment standards, usage, processing and transferring practices, and spill response procedures.

(b) (1) The department shall consult with the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the State Fire Marshal, and the California certified unified program agencies forum before adopting regulations pursuant to subdivision (a).

(2) The department shall also, before adopting regulations pursuant to subdivision (a), review existing federal, state, and local

laws governing the management of perchlorate materials to determine the degree to which uniform and adequate requirements already exist, so as to avoid any unnecessary duplication of, or interference with the application of, those existing requirements.

(3) In adopting regulations pursuant to subdivision (a), the department shall ensure that those regulations are at least as stringent as, and to the extent practical consistent with, the existing requirements of Chapter 6.95 (commencing with Section 25500) and the California Fire Code governing the management of perchlorate materials.

(c) The regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(d) The department may implement an outreach effort to educate persons who manage perchlorate materials concerning the regulations promulgated pursuant to subdivision (a).

SEC. 396. Section 25270.8 of the Health and Safety Code is amended to read:

25270.8. Each owner or operator of a tank facility shall immediately, upon discovery, notify the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the UPA using the appropriate 24-hour emergency number or the 911 number, as established by the UPA, or by the governing body of the UPA, of the occurrence of a spill or other release of one barrel (42 gallons) or more of petroleum that is required to be reported pursuant to subdivision (a) of Section 13272 of the Water Code.

SEC. 397. Section 25299.1 of the Health and Safety Code is amended to read:

25299.1. (a) Any city or county which prior to January 1, 1984, adopted an ordinance which, at a minimum, met the requirements set forth in Sections 25284 and 25284.1, as they read on January 1, 1984, prior to being amended and renumbered, providing for double containment, and monitoring of underground storage tanks which was exempt from this chapter as of December 31, 1989, is not exempt from implementing this chapter and shall implement this chapter on or before January 1, 1991.

(b) Until a city or county specified in subdivision (a) implements this chapter, the city or the county shall, at a minimum, do all of the following:

(1) Submit to the board the application form and annual information specified by Section 25286 and submit a written report of any unauthorized release from an underground storage tank to the ~~California Emergency Management Agency~~ *Office of Emergency Services* within 10 working days from the time the local agency is notified of the unauthorized release.

(2) Collect and transmit to the board the surcharge specified in subdivision (b) of Section 25287.

(3) Issue permits for the operation of an underground storage tank, which, at a minimum, ensure compliance with any applicable requirement of the federal act and any applicable regulation adopted by the board pursuant to Section 25299.3 which the board determines is necessary to ensure consistency with the federal act.

(c) A permit issued on or after January 1, 1991, by a city or county specified in subdivision (a) shall require compliance with all applicable requirements of this chapter and with the regulations adopted by the board pursuant to Section 25299.3.

(d) This chapter does not limit or abridge the authority of any city or county to adopt an ordinance requiring information, conducting investigations, inspections, or implementing and enforcing this chapter.

SEC. 398. Section 25359.4 of the Health and Safety Code is amended to read:

25359.4. (a) A person shall not release, or allow or cause a release of, a reportable quantity of a hazardous substance into the environment that is not authorized or permitted pursuant to state law.

(b) Any release of a reportable quantity of hazardous substance shall be reported to the department in writing within 30 days of discovery, unless any of the following apply:

(1) The release is permitted or in the permit process.

(2) The release is authorized by state law.

(3) The release requires immediate reporting to the ~~California Emergency Management Agency~~ *Office of Emergency Services* pursuant to Section 11002 or 11004 of Title 42 of the United States Code, or pursuant to Section 25507.

(4) The release has previously been reported to the department or the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(5) The release occurred prior to January 1, 1994.

(c) For the purposes of this section, "reportable quantity" means either of the following:

(1) The quantity of a hazardous substance established in Part 302 (commencing with Section 302.1) of Title 40 of the Code of Federal Regulations, the release of which requires notification pursuant to that part.

(2) Any quantity of a hazardous substance that is not reportable pursuant to paragraph (1), but that may pose a significant threat to public health and safety or to the environment. The department may establish guidelines for determining which releases are reportable under this paragraph.

(d) The owner of property on which a reportable release has occurred and any person who releases, or causes a reportable release and who fails to make the written report required by subdivision (b), shall be liable for a penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation and for each day that a violation continues. Each day on which the released hazardous substance remains is a separate violation unless the person has either filed the report or is in compliance with an order issued by a local, state, or federal agency with regard to the release.

(e) Liability under this section may be imposed in a civil action or may be administratively imposed by the department pursuant to Section 25359.3.

(f) If the violation of subdivision (b) results in, or significantly contributes to, an emergency, including, but not limited to, a fire, to which a county, city, or district is required to respond, the

responsible party may be assessed the full cost of the emergency response by the city, county, or district.

SEC. 399. Section 25404.3 of the Health and Safety Code is amended to read:

25404.3. (a) The secretary shall, within a reasonable time after submission of a complete application for certification pursuant to Section 25404.2, and regulations adopted pursuant to that section, but not to exceed 180 days, review the application, and, after holding a public hearing, determine if the application should be approved. Before disapproving an application for certification, the secretary shall submit to the applicant agency a notification of the secretary's intent to disapprove the application, in which the secretary shall specify the reasons why the applicant agency does not have the capability or the resources to fully implement and enforce the unified program in a manner that is consistent with the regulations implementing the unified program adopted by the secretary pursuant to this chapter. The secretary shall provide the applicant agency with a reasonable time to respond to the reasons specified in the notification and to correct deficiencies in its application. The applicant agency may request a second public hearing, at which the secretary shall hear the applicant agency's response to the reasons specified in the notification.

(b) In determining whether an applicant agency should be certified, or designated as certified, the secretary, after receiving comments from the director, the ~~Secretary of Emergency Management~~ *Director of Emergency Services*, the State Fire Marshal, and the Executive Officers and Chairpersons of the State Water Resources Control Board and the California regional water quality control boards, shall consider at least all of the following factors:

(1) Adequacy of the technical expertise possessed by each unified program agency that will be implementing each element of the unified program, including, but not limited to, whether the agency responsible for implementing and enforcing the requirements of Chapter 6.5 (commencing with Section 25100) satisfies the requirements of Section 15260 of Title 27 of the California Code of Regulations.

(2) Adequacy of staff resources.

(3) Adequacy of budget resources and funding mechanisms.

(4) Training requirements.

(5) Past performance in implementing and enforcing requirements related to the handling of hazardous materials and hazardous waste.

(6) Recordkeeping and cost accounting systems.

(7) Compliance with the criteria in Section 15170 of Title 27 of the California Code of Regulations.

(c) (1) In making the determination of whether or not to certify a particular applicant agency as a certified unified program agency, the secretary shall consider the applications of every other applicant agency applying to be a certified unified program agency within the same county, in order to determine the impact of each certification decision on the county. If the secretary identifies that there may be adverse impacts on the county if any particular agency in a county is certified, the secretary shall work cooperatively with each affected agency to address the secretary's concerns.

(2) The secretary shall not certify an agency to be a certified unified program agency unless the secretary finds both of the following:

(A) The unified program will be implemented in a coordinated and consistent manner throughout the entire county in which the applicant agency is located.

(B) The administration of the unified program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with regard to the administration of the provisions specified in subdivision (c) of Section 25404.

(d) (1) The secretary shall not certify an applicant agency that proposes to allow participating agencies to implement certain elements of the unified program unless the secretary makes all of the following findings:

(A) The applicant agency has adequate authority, and has in place adequate systems, protocols, and agreements, to ensure that the actions of the other agencies proposed to implement certain elements of the unified program are fully coordinated and consistent with each other and with those of the applicant agency, and to ensure full compliance with the regulations implementing the unified program adopted by the secretary pursuant to this chapter.

(B) An agreement between the applicant and other agencies proposed to implement any elements of the unified program

contains procedures for removing any agencies proposed and engaged to implement any element of the unified program. The procedures in the agreement shall include, at a minimum, provisions for providing notice, stating causes, taking public comment, making appeals, and resolving disputes.

(C) The other agencies proposed to implement certain elements of the unified program have the capability and resources to implement those elements, taking into account the factors designated in subdivision (b).

(D) All other agencies proposed to implement certain elements of the unified program shall maintain an agreement with the applicant agency that ensures that the requirements of Section 25404.2 will be fully implemented.

(E) If the applicant agency proposes that any agency other than itself will be responsible for implementing aspects of the single fee system imposed pursuant to Section 25404.5, the applicant agency maintains an agreement with that agency that ensures that the fee system is implemented in a fully consistent and coordinated manner, and that ensures that each participating agency receives the amount that it determines to constitute its necessary and reasonable costs of implementing the element or elements of the unified program that it is responsible for implementing.

(2) After the secretary has certified an applicant agency pursuant to this subdivision, that agency shall obtain the approval of the secretary before removing and replacing a participating agency that is implementing an element of the unified program.

(3) Any state agency, including, but not limited to, the State Department of Health Services, acting as a participating agency, may contract with a unified program agency to implement or enforce the unified program.

(e) Until a city's or county's application for certification to implement the unified program is acted upon by the secretary, the roles, responsibilities, and authority for implementing the programs identified in subdivision (c) of Section 25404 that existed in that city or county pursuant to statutory authorization as of December 31, 1993, shall remain in effect.

(f) (1) Except as provided in subparagraph (C) of paragraph (2) or in Section 25404.8, if no local agency has been certified by January 1, 1997, to implement the unified program within a city, the secretary shall designate either the county in which the city is

located or another agency pursuant to subparagraph (A) of paragraph (2) as the unified program agency.

(2) (A) Except as provided in subparagraph (C), if no local agency has been certified by January 1, 2001, to implement the unified program within the unincorporated or an incorporated area of a county, the secretary shall determine how the unified program shall be implemented in the unincorporated area of the county, and in any city in which there is no agency certified to implement the unified program. In such an instance, the secretary shall work in consultation with the county and cities to determine which state or local agency or combination of state and local agencies should implement the unified program, and shall determine which state or local agency shall be designated as the certified unified program agency.

(B) The secretary shall determine the method by which the unified program shall be implemented throughout the county and may select any combination of the following implementation methods:

(i) The certification of a state or local agency as a certified unified program agency.

(ii) The certification of an agency from another county as the certified unified program agency.

(iii) The certification of a joint powers agency as the certified unified program agency.

(C) Notwithstanding paragraph (1) and subparagraphs (A) and (B), if the Cities of Sunnyvale, Anaheim, and Santa Ana prevail in litigation filed in 1997 against the secretary, and, to the extent the secretary determines that these three cities meet the requirements for certification, the secretary may certify these cities as certified unified program agencies.

(g) (1) If a certified unified program agency wishes to withdraw from its obligations to implement the unified program and is a city or a joint powers agency implementing the unified program within a city, the agency may withdraw after providing 180 days' notice to the secretary and to the county within which the city is located, or to the joint powers agency with which the county has an agreement to implement the unified program.

(2) Whenever a certified unified program agency withdraws from its obligations to implement the unified program, or the secretary withdraws an agency's certification pursuant to Section

25404.4, the successor certified unified program agency shall be determined in accordance with subdivision (f).

SEC. 400. Section 25501 of the Health and Safety Code is amended to read:

25501. Unless the context indicates otherwise, the following definitions govern the construction of this chapter:

(a) "Administering agency" means the local agency authorized, pursuant to Section 25502, to implement and enforce this chapter.

(b) "Agency" *or "office"* means the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(c) "Agricultural handler" means an entity identified in paragraph (5) of subdivision (c) of Section 25503.5.

(d) "Area plan" means a plan established pursuant to Section 25503 by an administering agency for emergency response to a release or threatened release of a hazardous material within a city or county.

(e) "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association. For purposes of this chapter, "business" includes a business organized for profit and a nonprofit business.

(f) "Business plan" means a separate plan for each facility, site, or branch of a business that meets the requirements of Section 25504.

(g) "Certification statement" means a statement signed by the business owner, operator, or officially designated representative that attests to all of the following:

(1) The information contained in the annual inventory form most recently submitted to the administering agency is complete, accurate, and up to date.

(2) There has been no change in the quantity of any hazardous material as reported in the most recently submitted annual inventory form.

(3) No hazardous materials subject to the inventory requirements of this chapter are being handled that are not listed on the most recently submitted annual inventory form.

(4) The most recently submitted annual inventory form contains the information required by Section 11022 of Title 42 of the United States Code.

(h) (1) "Certified Unified Program Agency" or "CUPA" means the agency certified by the secretary to implement the unified

program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) "Participating Agency" or "PA" means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in paragraphs (4) and (5) of subdivision (c) of Section 25404, in accordance with the provisions of Sections 25404.1 and 25404.2.

(3) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this chapter, the UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. The UPAs also have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has been certified by the secretary, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA.

(i) "City" includes any city and county.

(j) "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(k) "Common name" means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance by other than its chemical name.

(*l*) "Department" means the Department of Toxic Substances Control and "director" means the Director of Toxic Substances Control.

(m) "Emergency rescue personnel" means any public employee, including, but not limited to, any fireman, firefighter, or emergency

rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local EMS agency, as designated pursuant to Section 1797.200, or a poison control center, as defined by Section 1797.97, who responds to any condition caused, in whole or in part, by a hazardous material that jeopardizes, or could jeopardize, public health or safety or the environment.

(n) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(o) "Handler" means any business that handles a hazardous material.

(p) "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

(q) "Hazardous substance" means any substance or chemical product for which one of the following applies:

(1) The manufacturer or producer is required to prepare a MSDS for the substance or product pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(2) The substance is listed as a radioactive material in Appendix B of Chapter 1 of Title 10 of the Code of Federal Regulations, maintained and updated by the Nuclear Regulatory Commission.

(3) The substances listed pursuant to Title 49 of the Code of Federal Regulations.

(4) The materials listed in subdivision (b) of Section 6382 of the Labor Code.

(r) "Hazardous waste" means hazardous waste, as defined by Sections 25115, 25117, and 25316.

(s) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching,

dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

(t) "Secretary" means the Secretary for Environmental Protection.

(u) "SIC Code" means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

(v) "Threatened release" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(w) "Trade secret" means trade secrets as defined in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(x) "Unified Program Facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraphs (4) and (5) of subdivision (c) of Section 25404.

SEC. 401. Section 25502 of the Health and Safety Code is amended to read:

25502. (a) (1) This chapter, as it pertains to the handling of hazardous material, shall be implemented by one of the following:

(A) If there is a CUPA, the Unified Program Agency.

(B) If there is no CUPA, the agency authorized pursuant to subdivision (f) of Section 25404.3.

(2) The agency responsible for implementing this chapter shall ensure full access to, and the availability of, information submitted under this chapter to emergency rescue personnel and other appropriate governmental entities within its jurisdiction.

(b) (1) If there is no CUPA, a city may, by ordinance or resolution, assume responsibility for the implementation of this chapter and, if so, shall have exclusive jurisdiction within the boundary of the city for the purposes of carrying out this chapter. The ordinance shall require that a person who violates Section 25507 shall be subject to the penalties specified in Section 25515. A city that assumes responsibility for implementation of this chapter shall provide notice of its ordinance or resolution to the ~~agency~~ *office* and to the administering agency of its county. It shall also consult with, and coordinate its activities with, the county in

which the city is located to avoid duplicating efforts or any misunderstandings regarding the areas, duties, and responsibilities of each administering agency.

(2) A city may not assume responsibility for the implementation of this chapter unless it has enacted an implementing ordinance or adopted an implementing resolution not later than 60 days after the ~~agency~~ *office* adopts regulations pursuant to Section 25503, except that a city may enact an implementing ordinance or adopt an implementing resolution after this 60-day period, if it has an agreement with the county to do so. A new city has one year from the date of incorporation to enact an ordinance or adopt a resolution implementing this chapter.

(3) The local agency responsible for administering and enforcing this chapter shall be the agency so authorized pursuant to subdivision (f) of Section 25404.3.

(c) If there is no CUPA, the county and any city that assume responsibility pursuant to subdivision (b) shall designate a department, office, or other agency of the county or city, as the case may be, or the city or county may designate a fire district, as the administering agency responsible for administering and enforcing this chapter. The county and any city that assume responsibility pursuant to subdivision (b) shall notify the ~~agency~~ *office* immediately upon making a designation. The local agency responsible for administering and enforcing this chapter shall be the agency so authorized pursuant to subdivision (f) of Section 25404.3.

SEC. 402. Section 25503 of the Health and Safety Code is amended to read:

25503. (a) Not later than September 1, 1986, the ~~agency~~ *office* shall adopt, after public hearing and consultation with the Office of the State Fire Marshal and other appropriate public entities, regulations for minimum standards for business plans and area plans. All business plans and area plans shall meet the standards adopted by the agency.

(b) The standards for business plans in the regulations adopted pursuant to subdivision (a) shall do all of the following:

(1) Set forth minimum requirements of adequacy, and not preclude the imposition of additional or more stringent requirements by local government.

(2) Take into consideration and adjust for the size and nature of the business, the proximity of the business to residential areas and other populations, and the nature of the damage potential of its hazardous materials in establishing standards for subdivisions (b) and (c) of Section 25504.

(3) Take into account the existence of local area and business plans which meet the requirements of this chapter so as to minimize the duplication of local efforts, consistent with the objectives of this chapter.

(4) Define what releases and threatened releases are required to be reported pursuant to Section 25507. The ~~agency~~ *office* shall consider the existing federal reporting requirements in determining a definition of reporting releases pursuant to Section 25507.

(c) An administering agency shall establish an area plan for emergency response to a release or threatened release of a hazardous material within its jurisdiction. An area plan is not a statute, ordinance, or regulation for purposes of Section 669 of the Evidence Code. The standards for area plans in the regulations adopted pursuant to subdivision (a) shall provide for all of the following:

(1) Procedures and protocols for emergency rescue personnel, including the safety and health of those personnel.

(2) Preemergency planning.

(3) Notification and coordination of onsite activities with state, local, and federal agencies, responsible parties, and special districts.

(4) Training of appropriate employees.

(5) Onsite public safety and information.

(6) Required supplies and equipment.

(7) Access to emergency response contractors and hazardous waste disposal sites.

(8) Incident critique and followup.

(9) Requirements for notification to the ~~agency~~ *office* of reports made pursuant to Section 25507.

(d) (1) The administering agency shall submit a copy of its proposed area plan, within 180 days after adoption of regulations by the ~~agency~~ *office* establishing area plan standards, to the ~~agency~~ *office* for review. The ~~agency~~ *office* shall notify the administering agency as to whether the area plan is adequate and meets the area plan standards. The administering agency shall within 45 days of this notice submit a corrected area plan.

(2) The administering agency shall certify to the ~~agency~~ *office* every three years that it has conducted a complete review of its area plan and has made any necessary revisions. Any time an administering agency makes any substantial changes to its area plan, it shall forward the changes to the ~~agency~~ *office* within 14 days after the changes have been made.

(e) An administering agency shall submit to the ~~agency~~ *office*, along with its area plan, both of the following:

(1) The basic provisions of a plan to conduct onsite inspections of businesses subject to this chapter by either the administering agency or other designated entity. These inspections shall ensure compliance with this chapter and shall identify existing safety hazards that could cause or contribute to a release and, where appropriate, enforce any applicable laws and suggest preventative measures designed to minimize the risk of the release of hazardous material into the workplace or environment. The requirements of this paragraph do not alter or affect the immunity provided a public entity pursuant to Section 818.6 of the Government Code.

(2) A plan to institute a data management system which will assist in the efficient access to and utilization of information collected under this chapter. This data management system shall be in operation within two years after the business plans are required to be submitted to the administering agency pursuant to Section 25505.

(f) The regulations adopted by the ~~agency~~ *office* pursuant to subdivision (a) shall include an optional model reporting form for business and area plans.

SEC. 403. Section 25503.1 of the Health and Safety Code is amended to read:

25503.1. The ~~agency~~ *office* and each administering agency shall adopt reporting requirements, in cooperation with the Chemical Emergency Planning and Response Commission, established by the Governor as the state emergency response commission pursuant to subsection (a) of Section 11001 of Title 42 of the United States Code, which are consistent with the intent and provisions of this chapter and with Chapter 116 (commencing with Section 11001) of Title 42 of the United States Code, for the purpose of eliminating duplicative reporting requirements, to the extent achievable and practicable.

SEC. 404. Section 25503.3 of the Health and Safety Code is amended to read:

25503.3. (a) The ~~agency~~ *office* shall, in consultation with the administering agencies, in accordance with Section 25503.1, adopt by regulation a single comprehensive hazardous material reporting form for businesses to submit to administering agencies for purposes of Section 25509. The form shall include a section for additional information that may be requested by the administering agency. The regulations shall also specify criteria for sharing data electronically. Except as provided in subdivisions (b) and (c), after January 1, 1997, each administering agency shall require businesses to use this form annually when complying with Section 25509.

(b) (1) Except as provided in paragraph (2), an administering agency may allow a business to submit a form designated by the administering agency for purposes of the inventory required by Section 25509 instead of the single comprehensive hazardous material reporting form adopted pursuant to subdivision (a). Any form designated by an administering agency pursuant to this paragraph shall ensure that all of the information required by Section 25509 is reported. The form shall be developed in consultation with the other agencies within the jurisdiction that are responsible for fire protection, emergency response, and environmental health. If the administering agency permits inventory information to be submitted by electronic means, the format and mode of submittal shall be developed in consultation with those other agencies and, following the adoption of standards for the sharing of electronic data pursuant to subdivision (e) of Section 25404, shall be consistent with those standards.

(2) If a business chooses to submit the single comprehensive hazardous material reporting form adopted pursuant to subdivision (a), the administering agency shall accept that form.

(c) Notwithstanding Section 25509, a business may comply with the annual inventory reporting requirements of this article by submitting a certification statement to the administering agency if both of the following apply:

(1) The business has previously filed the single comprehensive hazardous material reporting form required by subdivision (a) or the alternative form designated by the administering agency pursuant to subdivision (b).

(2) The business can attest to the statements set forth in paragraphs (1) to (4), inclusive, of subdivision (f) of Section 25501.

SEC. 405. Section 25503.4 of the Health and Safety Code is amended to read:

25503.4. (a) The agency shall adopt a format that allows persons subject to two or more of the following requirements to meet those requirements in one document:

(1) The business plan required by this chapter.

(2) The risk management plan required by Section 25534.

(3) The contingency plan required by Division 4.5 (commencing with Section 66001) of Title 22 of the California Code of Regulations and by Part 262 (commencing with Section 262.10), Part 264 (commencing with Section 264.1), or Part 265 (commencing with Section 265.1) of Title 40 of the Code of Federal Regulations.

(4) The spill prevention control and countermeasure plan required by Section 25270.4.5 and by Part 112 (commencing with Section 112.1) or by Part 300 (commencing with Section 300.1) of Title 40 of the Code of Federal Regulations.

(5) Any accident or spill prevention plan or response plan required by Chapter 6.7 (commencing with Section 25280) or by regulations adopted pursuant to that chapter or required by an underground storage tank ordinance adopted by a city or county.

(6) The interim marine facility oil spill contingency plan required by Section 8670.29 of the Government Code and the marine facility oil spill contingency plan required by Section 8670.31 of the Government Code.

(b) The format required by subdivision (a) shall be organized as follows:

(1) A central element that will enable persons using the format to report information and data common to all of the requirements described in subdivision (a).

(2) Appendices that will contain the additional information unique to each individual requirement described in subdivision (a).

(c) The ~~agency~~ *office* shall adopt the format required by subdivision (a) in consultation with administering agencies and the Information Management Subcommittee of the Chemical Emergency Planning and Response Commission and in cooperation with the State Water Resources Control Board, the Department of

Fish and Game, and the department. The adoption of the format is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be completed by January 1, 1995. To the extent feasible, and within the limits of budgetary constraints, the ~~agency~~ *office*, the State Water Resources Control Board, the Department of Fish and Game, and the department shall convene workshops and other public meetings to obtain public assistance on the development of the format.

SEC. 406. Section 25503.5 of the Health and Safety Code is amended to read:

25503.5. (a) (1) A business, except as provided in subdivisions (b), (c), and (d), shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted pursuant to Section 25503, if the business handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is any of the following:

(A) Except as provided in subparagraphs (C), (D), or (F), equal to, or greater than, a total weight of 500 pounds or a total volume of 55 gallons.

(B) Except as provided in subparagraphs (E) or (F), equal to, or greater than, 200 cubic feet at standard temperature and pressure, if the substance is compressed gas.

(C) The threshold planning quantity, under both of the following conditions:

(i) The hazardous material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations.

(ii) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(D) A total weight of 5,000 pounds, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, unless the administering agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that

hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(E) (i) A total of 1,000 cubic feet, if the hazardous material is a gas at standard temperature and pressure and is classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations solely as a compressed gas, unless the administering agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(ii) The hazardous materials subject to this subparagraph include a gas for which the only health and physical hazards are simple asphyxiation and the release of pressure.

(iii) The hazardous materials subject to this subparagraph do not include gases in a cryogenic state.

(F) If the substance is a radioactive material, it is handled in quantities for which an emergency plan is required to be adopted pursuant to Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1), of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

(2) In meeting the requirements of this subdivision, a business may, if it elects to do so, use the format adopted pursuant to Section 25503.4.

(3) The administering agency shall make the findings required by subparagraphs (D) and (E) of paragraph (1) in consultation with the local fire chief.

(b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, or pharmacist, at his or her office or place of business, stored at each office or place of business in quantities of not more than 1,000 cubic feet of each material at any one time, are exempt from this section and from Section 25505. The administering agency may require a one-time inventory of these materials for a fee not to exceed fifty dollars ($50) to pay for the costs incurred by the ~~agency~~ *office* in processing the inventory forms.

(2) (A) Lubricating oil is exempt from this section and Sections 25505 and 25509, for a single business facility, if the total volume of each type of lubricating oil handled at that facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

(B) For purposes of this paragraph, "lubricating oil" means any oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. "Lubricating oil" does not include used oil, as defined in subdivision (a) of Section 25250.1.

(3) Oil-filled electrical equipment that is not contiguous to an electric facility is exempt from this section and Sections 25505 and 25509 if the aggregate capacity is less than 1,320 gallons.

(c) (1) Hazardous material contained solely in a consumer product for direct distribution to, and use by, the general public is exempt from the business plan requirements of this article unless the administering agency has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(2) In addition to the authority specified in paragraph (4), the administering agency may, in exceptional circumstances, following notice and public hearing, exempt from the inventory provisions of this article any hazardous substance specified in subdivision (q) of Section 25501 if the administering agency finds that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment. The administering agency shall specify in writing the basis for granting any exemption under this paragraph. The administering agency shall send a notice to the ~~agency~~ *office* within five days from the effective date of any exemption granted pursuant to this paragraph.

(3) The administering agency, upon application by a handler, may exempt the handler, under conditions that the administering agency determines to be proper, from any portion of the business plan, upon a written finding that the exemption would not pose a

significant present or potential hazard to human health or safety or to the environment or affect the ability of the administering agency and emergency rescue personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The administering agency shall specify in writing the basis for any exemption under this paragraph.

(4) The administering agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The administering agency shall specify in writing the basis for any exemption under this paragraph.

(5) An administering agency shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information in the business plan required by subdivisions (b) and (c) of Section 25504 if all of the following requirements are met:

(A) The handler annually provides the inventory of information required by Section 25509 to the county agricultural commissioner before January 1 of each year.

(B) Each building in which hazardous materials subject to this article are stored is posted with signs, in accordance with regulations that the ~~agency~~ *office* shall adopt, that provide notice of the storage of any of the following:

(i) Pesticides.

(ii) Petroleum fuels and oil.

(iii) Types of fertilizers.

(C) Each county agricultural commissioner forwards the inventory to the administering agency within 30 days from the date of receipt of the inventory.

(6) The administering agency shall exempt a business operating an unstaffed remote facility located in an isolated sparsely populated area from the hazardous materials business plan and inventory requirements of this article if the facility is not otherwise subject to the requirements of applicable federal law, and all of the following requirements are met:

(A) The types and quantities of materials onsite are limited to one or more of the following:

(i) Five hundred standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only).

(ii) Five hundred gallons of combustible liquid used as a fuel source.

(iii) Two hundred gallons of corrosive liquids used as electrolytes in closed containers.

(iv) Five hundred gallons of lubricating and hydraulic fluids.

(v) One thousand two hundred gallons of flammable gas used as a fuel source.

(vi) Any quantity of mineral oil contained within electrical equipment, such as transformers, bushings, electrical switches, and voltage regulators, if a spill prevention control and countermeasure plan has been prepared for quantities in excess of 1,320 gallons.

(B) The facility is secured and not accessible to the public.

(C) Warning signs are posted and maintained for hazardous materials pursuant to the California Fire Code.

(D) A one-time notification and inventory are provided to the administering agency along with a processing fee in lieu of the existing fee. The fee shall not exceed the actual cost of processing the notification and inventory, including a verification inspection, if necessary.

(E) If the information contained in the initial notification or inventory changes and the time period of the change is longer than 30 days, the notification or inventory shall be resubmitted within 30 days to the administering agency to reflect the change, along with a processing fee, in lieu of the existing fee, that does not exceed the actual cost of processing the amended notification or inventory, including a verification inspection, if necessary.

(F) The administering agency shall forward a copy of the notification and inventory to those agencies that share responsibility for emergency response.

(G) The administering agency may require an unstaffed remote facility to submit a hazardous materials business plan and inventory in accordance with this article if the ~~agency~~ *office* finds that special circumstances exist such that development and maintenance of the business plan and inventory are necessary to protect public health and safety and the environment.

(d) On-premise use, storage, or both, of propane in an amount not to exceed 500 gallons that is for the sole purpose of cooking,

heating the employee work areas, and heating water, within that business, is exempt from this section, unless the administering agency finds, and provides notice to the business handling the propane, that the handling of the on-premise propane requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(e) The administering agency shall provide all information obtained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis.

(f) The administering agency shall adopt procedures to provide for public input when approving any applications submitted pursuant to paragraph (3) or (4) of subdivision (c).

SEC. 407. Section 25503.9 of the Health and Safety Code is amended to read:

25503.9. On or before January 1, 1995, the ~~agency~~ *office* shall, in consultation with the administering agencies and the State Fire Marshal, adopt by regulation a single comprehensive addendum to the hazardous materials reporting form for businesses to submit to administering agencies for purposes of complying with subdivisions (b) and (c) of Section 13143.9 and subdivision (b) of Section 25509. The regulations shall also specify criteria for sharing data electronically. Not later than two years after the effective date of those regulations, and annually thereafter, each administering agency shall require businesses to use that addendum when complying with subdivisions (b) and (c) of Section 13143.9 and subdivision (b) of Section 25509. The addendum shall be filed with the administering agency, when required by the local fire chief.

SEC. 408. Section 25505.2 of the Health and Safety Code is amended to read:

25505.2. (a) Notwithstanding any other provision of this chapter, any city or county which, on September 1, 1985, had in effect a local ordinance containing business inventory reporting requirements substantially similar to this chapter, as amended by the act enacting this section, is exempt from having to implement any regulations adopted by the ~~agency~~ *office* concerning business plans upon meeting both of the following requirements:

(1) Not later than 90 days after the effective date of the act enacting this section, the city or county enacts an ordinance, or amends its existing ordinance, so that its requirements for business

plans are the same as, or more restrictive than, this chapter, including subdivision (a) of Section 25503.5 and Sections 25504 and 25509.

(2) The ~~agency~~ *office* certifies that the ordinance's requirements are in compliance with paragraph (1) and that the city or county is implementing the ordinance, based upon evidence submitted by the city or county. Applications for exemption shall be filed with the ~~agency~~ *office* not later than 120 days from the effective date of the act enacting this section and the ~~agency~~ *office* shall certify or reject the applications within 60 days after receipt. The city or county may file an appeal of the decision of the ~~agency~~ *office* with the ~~secretary of the agency~~ *Director of Emergency Services*, under procedures established by the ~~agency~~ *office*.

(b) This section does not exempt any administering agency from compliance with any other provision of this chapter.

(c) Any business located in a city or county which is exempt from the regulations adopted pursuant to this chapter concerning business plans, shall comply with the ordinance adopted by the city or county.

SEC. 409. Section 25507 of the Health and Safety Code is amended to read:

25507. (a) Except as provided in subdivision (b), the handler or any employee, authorized representative, agent, or designee of a handler shall, upon discovery, immediately report any release or threatened release of a hazardous material to the administering agency, and to the ~~agency~~ *office*, in accordance with the regulations adopted pursuant to Section 25503. Each handler and any employee, authorized representative, agent, or designee of a handler shall provide all state, city, or county fire or public health or safety personnel and emergency rescue personnel with access to the handler's facilities.

(b) Subdivision (a) does not apply to any person engaged in the transportation of a hazardous material on a highway which is subject to, and in compliance with, the requirements of Sections 2453 and 23112.5 of the Vehicle Code.

SEC. 410. Section 25507.1 of the Health and Safety Code is amended to read:

25507.1. (a) Any business required to submit a followup emergency notice pursuant to subdivision (c) of Section 11004 of Title 42 of the United States Code, as that section read on January

1, 1989, or as it may be subsequently amended, shall submit the notice on a form approved by the ~~agency~~ *office*.

(b) The ~~agency~~ *office* may adopt guidelines for the use of the forms required by subdivision (a).

SEC. 411. Section 25509 of the Health and Safety Code is amended to read:

25509. (a) The annual inventory form shall include, but shall not be limited to, information on all of the following which are handled in quantities equal to or greater than the quantities specified in subdivision (a) of Section 25503.5:

(1) A listing of the chemical name and common names of every hazardous substance or chemical product handled by the business.

(2) The category of waste, including the general chemical and mineral composition of the waste listed by probable maximum and minimum concentrations, of every hazardous waste handled by the business.

(3) A listing of the chemical name and common names of every other hazardous material or mixture containing a hazardous material handled by the business that is not otherwise listed pursuant to paragraph (1) or (2).

(4) The maximum amount of each hazardous material or mixture containing a hazardous material disclosed in paragraphs (1), (2), and (3) that is handled at any one time by the business over the course of the year.

(5) Sufficient information on how and where the hazardous materials disclosed in paragraphs (1), (2), and (3) are handled by the business to allow fire, safety, health, and other appropriate personnel to prepare adequate emergency responses to potential releases of the hazardous materials.

(6) The SIC Code number of the business if applicable.

(7) The name and telephone number of the person representing the business and able to assist emergency personnel in the event of an emergency involving the business during nonbusiness hours.

(b) If the local fire chief requires the business to comply with the requirements of subdivision (c) of Section 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9, the business shall also file the addendum required by Section 25503.9 with the administering agency.

(c) The administering agency may permit the reporting of the amount of hazardous material under this section by ranges, rather

than a specific amount, as long as those ranges provide the information necessary to meet the needs of emergency rescue personnel, to determine the potential hazard from a release of the materials, and meets the purposes of this chapter.

(d) (1) Except as provided in subdivision (e), the annual inventory form required by this section shall also include all inventory information required by Section 11022 of Title 42 of the United States Code, as that section read on January 1, 1989, or as it may be subsequently amended.

(2) The ~~agency~~ *office* may adopt or amend existing regulations specifying the inventory information required by this subdivision.

(e) If, pursuant to federal law or regulation, as it currently exists or as it may be amended, there is a determination that the inventory information required by subdivisions (a) and (c) is substantially equivalent to the inventory information required under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivision (d) shall not apply.

SEC. 412. Section 25517.5 of the Health and Safety Code is amended to read:

25517.5. (a) The ~~agency~~ *office* may develop materials, such as guidelines and informational pamphlets, to assist businesses to fulfill their obligations under this chapter.

(b) The ~~agency~~ *office* may adopt emergency regulations for the purpose of implementing Sections 25503 and 25509. These emergency regulations shall be adopted by the ~~agency~~ *office* in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

SEC. 413. Section 25520 of the Health and Safety Code is amended to read:

25520. The ~~agency~~ *office*, not later than January 10, 1986, shall adopt emergency regulations for the immediate report of release or threatened release of a hazardous material as required by Section 25507 until regulations are adopted pursuant to Section 25503. Regulations adopted pursuant to this section are not subject to review by the Office of Administrative Law.

SEC. 414. Section 25531.2 of the Health and Safety Code is amended to read:

25531.2. (a) The Legislature finds and declares that as the state implements the federal accidental release prevention program pursuant to this article, the ~~California Emergency Management Agency~~ *Office of Emergency Services* will play a vital and increased role in preventing accidental releases of extremely hazardous substances. The Legislature further finds and declares that as an element of the unified program established pursuant to Chapter 6.11 (commencing with Section 25404), a single fee system surcharge mechanism is established by Section 25404.5 to cover the costs incurred by the ~~agency~~ *office* pursuant to this article. It is the intent of the Legislature that this existing authority, together with any federal assistance that may become available to implement the accidental release program, be used to fully fund the activities of the ~~agency~~ *office* necessary to implement this article.

(b) The ~~agency~~ *office* shall use any federal assistance received to implement Chapter 6.11 (commencing with Section 25404) to offset any fees or charges levied to cover the costs incurred by the ~~agency~~ *office* pursuant to this article.

SEC. 415. Section 25545 of the Health and Safety Code is amended to read:

25545. The ~~agency~~ *office* shall develop informational guidelines for facilities required to comply with Chapter 116 (commencing with Section 11001) of Title 42 of the United States Code and with this chapter, and shall assist the administering agencies in ensuring full distribution of these guidelines to those facilities.

SEC. 416. Section 35805 of the Health and Safety Code is amended to read:

35805. As used in this part:

(a) "Agency" means the ~~Business, Transportation and Housing~~ *Business, Consumer Services and Housing* Agency.

(b) "Fair market value" means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. The use of this definition of fair market value by a financial institution in an appraisal made at any

time on or after July 1, 1986, does not violate the provisions of this part.

(c) "Financial institution" includes any bank, savings and loan association, or other institution in this state, including a public agency, that regularly makes, arranges, or purchases loans for the purchase, construction, rehabilitation, improvement, or refinancing of housing accommodations.

(d) "Housing accommodation" includes any improved or unimproved real property, or portion thereof, that (1) is used or is intended to be used as a residence, and (2) is or will be occupied by the owner, and (3) contains not more than four dwelling units. "Housing accommodation" shall also include any residential dwelling containing not more than four dwelling units where the owner thereof, whether or not the owner will occupy the property, applies or has applied for a secured home improvement loan from a financial institution, the proceeds of which loan will be used to improve the security property.

(e) "Secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ *Business, Consumer Services and Housing*.

SEC. 417. Section 50093 of the Health and Safety Code is amended to read:

50093. "Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the agency and the department jointly, or either acting with the concurrence of the Secretary of ~~the Business and Transportation Agency~~ *Business, Consumer Services and Housing*, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 50105, extremely

low income households, as defined in Section 50106, and lower income households as defined in Section 50079.5, and includes persons and families of extremely low income, persons and families of very low income, persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

(a) "Persons and families of low income" or "persons of low income" means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

(b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds the income limit for lower income households.

(c) "Persons and families of median income" means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, "area median income" means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100 percent of area median income, and for persons and families of low or moderate income for all geographic areas of the state at 120 percent of area median income. These income limits shall be adjusted for family size and shall be revised annually.

For purposes of this section, the department shall file, with the Office of Administrative Law, any changes in area median income and income limits determined by the United States Department of Housing and Urban Development, together with any consequent changes in other derivative income limits determined by the department pursuant to this section. These filings shall not be subject to Article 5 (commencing with Section 11346) or Article

6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, but shall be effective upon filing with the Office of Administrative Law and shall be published as soon as possible in the California Regulatory Code Supplement and the California Code of Regulations.

The department shall establish and publish a general definition of income, including inclusions, exclusions, and allowances, for qualifying persons under the income limits of this section and Sections 50079.5, 50105, and 50106 to be used where no other federal or state definitions of income apply. This definition need not be established by regulation.

Nothing in this division shall prevent the agency or the department from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for programs of the agency or department, as the case may be.

SEC. 418. Section 50150 of the Health and Safety Code is amended to read:

50150. This chapter sets forth the general responsibilities and roles of the ~~Business, Transportation, and Housing~~ *Business, Consumer Services and Housing* Agency, the Department of Housing and Community Development, and the California Housing Finance Agency in carrying out state housing policies and programs. It is declaratory of existing law as to those roles and responsibilities, and shall not be construed as creating additional responsibilities.

SEC. 419. Section 50151 of the Health and Safety Code is amended to read:

50151. The Secretary of ~~the Business, Transportation, and Housing Agency~~ *Business, Consumer Services and Housing* shall be responsible for allocating financial aid and contributions made available directly to state government or to the agency by any agency of the United States for the purpose of subsidizing housing for persons and families of low or moderate income.

The agency shall have priority among all other units of state government for receipt of federal housing subsidies for use in connection with its lending and insurance programs.

SEC. 420. Section 50153 of the Health and Safety Code is amended to read:

50153. To further the goals of this division and to enable the success of a statewide housing program, it is essential, and the Legislature intends, that the agency and the department shall closely coordinate their activities to assure that the goals and purposes of this division are realized. To this end, the Secretary of ~~the Business, Transportation, and Housing Agency~~ *Business, Consumer Services and Housing* and the director of the department have been given a role on the board which administers the agency and approves major contractual agreements, and a veto power over agency regulations in certain policy areas as specified in Section 50462, and the agency is required to coordinate its activities with the department. Subject to these restrictions, however, and when carrying out its own unique responsibilities, the agency is relatively free of regulation by other agencies of state government.

SEC. 421. Section 50154 of the Health and Safety Code is amended to read:

50154. The California Housing Finance Agency, within the ~~Business, Transportation, and Housing~~ *Business, Consumer Services and Housing* Agency, is a primary agency in the implementation of state housing policy. The agency's role is to make financing opportunities available for the construction, rehabilitation, and purchase of housing for persons and families of low or moderate income by (a) borrowing in the securities markets and relending to housing sponsors, developers, and homeowners and (b) insuring loans made by the agency or by others for the same purposes. In general, the agency pays for its operations out of the excess of its interest revenue from loan repayments over the cost of the money it borrows or, in the case of insurance, by the excess of fees charged for the provision of insurance over the value of claims paid. The agency shall seek to implement the goals, policies, and objectives of the California Statewide Housing Plan and shall annually report on its progress toward compliance with priorities in the California Statewide Housing Plan.

SEC. 422. Section 50452 of the Health and Safety Code is amended to read:

50452. The department shall update and provide a revision of the California Statewide Housing Plan to the Legislature by January 1, 2006, by January 1, 2009, and every four years thereafter. The revisions shall contain all of the following segments:

(a) A comparison of the housing need for the preceding four years with the amount of building permits issued and mobilehome units sold in those fiscal years.

(b) A revision of the determination of the statewide need for housing development specified in subdivision (b) of Section 50451 for the current year and projected four additional years ahead.

(c) A revision of the housing assistance goals specified in subdivision (c) of Section 50451 for the current year and projected four additional years ahead.

(d) A revision of the evaluation required by subdivision (a) of Section 50451 as new census or other survey data become available. The revision shall contain an evaluation and summary of housing conditions throughout the state and may highlight data for multicounty or regional areas, as determined by the department. The revision shall include a discussion of the housing needs of various population groups, including, but not limited to, the elderly persons, disabled persons, large families, families where a female is the head of the household, and farmworker households.

(e) An updating of recommendations for actions by federal, state, and local governments and the private sector which will facilitate the attainment of housing goals established for California.

The Legislature may review the plan and the updates of the plan and transmit its comments on the plan or updates of the plan to the Governor, the Secretary of ~~the Business, Transportation, and Housing Agency~~ *Business, Consumer Services and Housing*, and the Director of Housing and Community Development.

SEC. 423. Section 50462 of the Health and Safety Code is amended to read:

50462. The department may initiate, develop, and propose regulations for adoption by the agency and review regulations proposed by the board prior to their taking effect, with respect to the following:

(a) Standards for affirmative marketing programs of housing sponsors seeking financial assistance from the agency.

(b) Criteria for certifying that the sale or conveyance of real property pursuant to Section 51061 or Section 51251 will primarily benefit persons and families of low or moderate income living in a housing development or a residential structure.

(c) Regulations permitting grants to be made by the agency to housing sponsors for the purpose of attaining affordable rents in

housing developments financed by the agency. Such grants shall not be made with moneys derived from the sale of bonds.

(d) Regulations governing payments, procedures, and eligibility for relocation assistance for individuals and families displaced by actions of the agency or of housing sponsors of housing developments or neighborhood improvement loans.

(e) Criteria for qualification of persons, families, and households as persons and families of low or moderate income, lower income households, or very low income households.

(f) Regulations establishing the maximum percentage of income which may be paid by persons and families of low or moderate income for housing cost within the meaning of the term affordable housing cost, as defined in Section 50052.5.

(g) Regulations designating geographical areas of need throughout the state for housing construction or rehabilitation, as identified in the California Statewide Housing Plan, identifying housing markets in which insufficient financing is available for purchase or rehabilitation of existing housing, identifying types of households with particularly severe housing needs, or establishing priority criteria for the selection of homes and projects to be financed as housing developments or neighborhood improvement loans.

(h) Criteria for inclusion of nonhousing facilities in housing developments financed by the agency.

Regulations proposed by the agency in such areas of responsibility shall not take effect without concurrence of the director, the Secretary of ~~the Business and Transportation Agency~~ *Business, Consumer Services and Housing*, or a representative of the secretary specifically designated for such review and approval.

SEC. 424. Section 50661.5 of the Health and Safety Code is amended to read:

50661.5. (a) There is hereby created in the State Treasury the California Disaster Housing Repair Fund, into which shall be paid all moneys appropriated by the Legislature pursuant to subdivision (b) or transferred pursuant to subdivision (c) for housing repair loans pursuant to Sections 50662.7, 50671.5, and 50671.6. All interest or other increments resulting from the investment of moneys in the California Disaster Housing Repair Fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Notwithstanding Section 13340 of the

Government Code, all money in that fund is continuously appropriated to the department for the following purposes:

(1) For making deferred payment loans and predevelopment loans pursuant to Sections 50662.7, 50671.5, and 50671.6.

(2) For related administrative expenses of the department.

(3) For related administrative expenses of any entity contracting with the department, pursuant to Sections 50662.7, 50671.5, and 50671.6 in an amount, if any, as determined by the department, to enable the entities to implement a program pursuant to those sections.

(4) For providing loan guarantees for disaster-related loans made by private institutional lending sources.

(b) There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys transferred from the Special Fund for Economic Uncertainties prior to July 1, 1996, pursuant to subdivision (c).

(3) Any other moneys which may be made available to the department prior to July 1, 1996, for the purposes of this section from any other source or sources.

(4) The director may authorize the sale of the beneficiary interest of loans made pursuant to Section 50662.7. The proceeds from that sale prior to July 1, 1996, shall be deposited into the California Disaster Housing Repair Fund. Proceeds from that sale after July 1, 1996, shall be deposited in the General Fund.

(c) (1) To the extent that funds are not available, the Department of Housing and Community Development shall submit to the Department of Finance, within 90 days after a disaster, a deficiency request based on a minimum funding level based on a damage survey completed by the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the Federal Emergency Management Agency. The request shall distinguish between owner-occupied housing of one to four units and rental housing of five or more units.

(2) Upon receipt of the deficiency request from the Department of Housing and Community Development pursuant to paragraph (1), the Department of Finance shall make a funding determination and notify the Legislature of the approval or disapproval of the deficiency amount. Any deficiency amount approved shall

distinguish between owner-occupied housing of one to four units and rental housing of five or more units.

(3) Any payments made pursuant to this subdivision from funds made available under Section 50671.5 shall be matched by a corresponding and equal payment from funds made available under Section 50671.6, except that, upon the determination of the Director of Finance that one of the two rental repair programs has excess funds, moneys from that fund may be used for either of the other two disaster repair programs.

(d) In the event of a natural disaster, as defined in Section 8680.3 of the Government Code, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties established by Section 16418 of the Government Code to the California Disaster Housing Repair Fund, provided the transfer is not made sooner than 30 days after notification in writing of the necessity therefor is provided to the Joint Legislative Budget Committee.

(e) Notwithstanding any other provision of law, on or after July 1, 1996, the unencumbered fund balance and reserves shall be transferred to the Housing Rehabilitation Loan Fund and subsequent income and other resources payable pursuant to Sections 50662.7, 50671.5, and 50671.6, shall be deposited to the Housing Rehabilitation Loan Fund, except that payments of principal and interest on loans issued pursuant to Sections 50662.7, 50671.5, and 50671.6 shall be deposited in the General Fund.

(f) In making funds available to disaster victims pursuant to Sections 50662.7, 50671.5, and 50671.6, the department shall impose a one-year deadline for submission of applications.

(g) Any changes made on or after January 1, 1994, to any program funded by the California Disaster Housing Repair Fund shall not apply to applications submitted on or before December 31, 1993. The department may administer the program in accordance with guidelines until regulations are adopted.

SEC. 425. Section 50900 of the Health and Safety Code is amended to read:

50900. The California Housing Finance Agency is hereby continued in existence in the ~~Business, Transportation and Housing Agency~~ *Department of Housing and Community Development*. The agency constitutes a public instrumentality and a political subdivision of the state, and the exercise by the agency of the

powers conferred by this division shall be deemed and held to be the performance of an essential public function.

SEC. 426. Section 51005 of the Health and Safety Code is amended to read:

51005. (a) The agency shall, by November 1 of each year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of ~~the Business and Transportation Agency~~ *Business, Consumer Services and Housing*, the Director of Housing and Community Development, the Treasurer, the Joint Legislative Budget Committee, the Legislative Analyst, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of residential structures purchased during the previous fiscal year by persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents, and managing agents.

(b) The report shall also include specific information evaluating the extent to which the programs administered by the agency have attained the statutory objectives of the agency, including, but not limited to, (1) the primary purpose of the agency in meeting the housing needs of persons and families of low or moderate income pursuant to Section 50950, (2) the occupancy requirements for very low income households established pursuant to Sections 50951 and 51226, (3) the elderly and orthopedic disability occupancy requirements established pursuant to Section 51230, (4) the use of surplus moneys pursuant to Section 51007, (5) the metropolitan, nonmetropolitan, and rural goals established pursuant to subdivision (h) of Section 50952, (6) the California Statewide Housing Plan, as required by Section 50154, (7) the statistical and

other information developed and maintained pursuant to Section 51610, (8) the number of manufactured housing units assisted by the agency, (9) information with respect to the proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment of bonds or securities, and the uses for which those proceeds or increments are being made as provided for in Section 51365, including the amount by which each fund balance exceeds indenture requirements, (10) any recommendations described in subdivision (d), (11) any recommendations described in Section 51227, (12) the revenue bonding authority plan adopted pursuant to Section 51004.5, (13) the statistical and other information required to be provided pursuant to Section 50156, (14) an analysis of the agency's compliance with the targeting requirements of subsection (d) of Section 142 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 142) with respect to any issue of bonds subject to those requirements under Section 103 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 103), including the numbers of rental units subject to this reporting requirement by categories based on the number of bedrooms per unit, and (15) the statistical and other information relating to congregate housing for the elderly pursuant to Section 51218.

The agency may, at its option, include the information required by this section in a single document or may separately report the statistical portion of the information in a supplement appended to its annual report. This statistical supplement shall be distributed with copies of the agency's annual report, but need not be provided to bond rating agencies, underwriters, investors, developers, or financial institutions.

(c) The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

(d) The agency shall assess any obstacles or problems that it has encountered in meeting its mandate to serve nonmetropolitan and rural metropolitan areas, and recommend legislative and administrative solutions to overcome these obstacles or problems. The agency shall separately assess its progress in meeting the rehabilitation needs of rural areas and the new construction needs

of rural areas, and separately assess its progress as to single and multifamily units. The agency shall include in its report a quantification and evaluation of its progress in meeting the housing needs of communities of various sizes in rural areas.

(e) By December 1 of each fiscal year, the agency shall ascertain that not less than 25 percent of the total units financed by mortgage loans during the preceding 12 months pursuant to this part were made available to very low income households. If the agency finds that these very low income occupancy goals have not been met, the agency shall immediately notify the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, and shall recommend legislation or other action as may be required to make (1) at least 25 percent of the units so available, and (2) at least 25 percent of the units thereafter financed so available. In housing developments for which the agency provides a construction loan but not a mortgage loan, the agency shall report annually on the percentage of units projected to be made available for occupancy and actually occupied by lower income households.

SEC. 427. Section 51614 of the Health and Safety Code is amended to read:

51614. (a) The agency is hereby vested with full power, authority, and jurisdiction over the insurance fund. The agency may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the insurance fund, either in the administration thereof or in connection with the business administered under this part, as fully and completely as the governing body of a private insurance carrier.

(b) The agency may create task forces and advisory committees, when appropriate and as the members deem necessary, for the purpose of obtaining advice on issues arising as a result of the agency's activities under this part. Ex officio members of those task forces and advisory committees may include, but are not limited to, the Insurance Commissioner or his or her designee, the Director of Housing and Community Development or his or her designee, the Director of the Seismic Safety Commission or his or her designee, and the ~~Secretary of Emergency Management~~ *Director of Emergency Services* or his or her designee.

SEC. 428. Section 51624 of the Health and Safety Code is amended to read:

51624. The agency shall prepare a preliminary budget for the agency's activities under this part on or before December 1 of each year for the ensuing fiscal year, to be reviewed by the Secretary of ~~the Business, Transportation and Housing Agency~~ *Business, Consumer Services and Housing*, the Director of Finance, and the Joint Legislative Budget Committee.

SEC. 429. Section 53524 of the Health and Safety Code is amended to read:

53524. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the Housing Finance Committee is hereby created. For purposes of this part, the Housing Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Treasurer, the Director of Finance, the Secretary of ~~the Business, Transportation and Housing Agency~~ *Business, Consumer Services and Housing*, the Director of Housing and Community Development, and the Executive Director of the California Housing Finance Agency, or their designated representatives. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the department is designated the "board" for programs administered by the department, and the agency is the "board" for programs administered by the agency.

SEC. 430. Section 101080.2 of the Health and Safety Code is amended to read:

101080.2. (a) The local health officer may issue, and first responders may execute, an order authorizing first responders to immediately isolate exposed individuals that may have been exposed to biological, chemical, toxic, or radiological agents that may spread to others. An order issued pursuant to this section shall not be in effect for a period longer than two hours and shall only be issued if the means are both necessary and the least restrictive possible to prevent human exposure.

(b) Before any implementation of the authority in subdivision (a), the local health officer shall establish a related memorandum of understanding with first responders in his or her jurisdiction that shall require consultation with the ~~California Emergency~~

~~Management Agency~~ *Office of Emergency Services* operational area coordinator, consistent with the standardized emergency management system established pursuant to Section 8607 of the Government Code, and shall include where and how exposed subjects will be held pending decontamination in the local jurisdiction. That memorandum of understanding shall be made available to the public.

(c) A violation of an order issued by the local health officer and executed by a first responder pursuant to subdivision (a) is a misdemeanor, punishable by a fine of up to one thousand dollars ($1000), or by imprisonment in the county jail for a period of up to 90 days, or by both.

SEC. 431. Section 105215 of the Health and Safety Code is amended to read:

105215. (a) Any public employee, as defined in Section 811.4 of the Government Code, whose responsibilities include matters relating to health and safety, protection of the environment, or the use or transportation of any pesticide and who knows, or has reasonable cause to believe, that a pesticide has been spilled or otherwise accidentally released, shall promptly notify the local health officer or the notification point specified in the local hazardous materials response plan, where the plan has been approved by the ~~California Emergency Management Agency~~ *Office of Emergency Services* and is in operation. The operator of the notification point shall immediately notify the local health officer of the pesticide spill report.

(b) The local health officer shall immediately notify the county agricultural commissioner and, at his or her discretion, shall immediately notify the Director of Environmental Health Hazard Assessment of each report received. Within seven days after receipt of any report, the local health officer shall notify the Director of Pesticide Regulation, the Director of Environmental Health Hazard Assessment, and the Director of Industrial Relations, on a form prescribed by the Director of Environmental Health Hazard Assessment, of each case reported to him or her pursuant to this section.

(c) The Office of Environmental Health Hazard Assessment shall designate a telephone number or numbers for use by local health officers in the immediate notification of the office of a pesticide spill report. The office shall from time to time establish

criteria for use by the local health officers in determining whether the circumstances of a pesticide spill warrants the immediate notification of the office.

SEC. 432. Section 114650 of the Health and Safety Code is amended to read:

114650. (a) As used in this chapter, the following definitions shall apply:

(1) "Agency" *or "office "* means the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(2) "Department" means the State Department of *Public* Health ~~Services~~.

(3) "Disburse or disbursement" means a payment in advance from the Nuclear Planning Assessment Special Account, as specified in paragraph (5) of subdivision (b) of Section 8610.5 of the Government Code.

(4) "Emergency planning zone" means a zone identified in state and local government emergency plans where immediate decisions for effective public protective action from radiation may be necessary.

(5) "Exercise" means an event that tests emergency plans and organizations and that the Federal Emergency Management Agency evaluates pursuant to Part 350 (commencing with Section 350.1) of Subchapter E of Chapter I of Title 44 of the Code of Federal Regulations.

(6) "Ingestion pathway phase" means the period beginning after any release of radioactive material from a nuclear powerplant accident when the plume emergency phase has ceased, and reliable environmental measurements are available for making decisions on additional protective actions to protect the food chain. The main concern is to prevent exposure from ingestion of contaminated water or food, such as milk, fresh vegetables, or aquatic foodstuffs.

(7) "Ingestion pathway zone" means the 50-mile radius around each of the state's nuclear powerplants in which protective actions may be required to protect the food chain in the event of an emergency.

(8) "Interjurisdictional Planning Committee" means the planning committee, comprised of representatives of the Counties of Orange and San Diego, the Cities of Dana Point, San Clemente, and San Juan Capistrano, the Camp Pendleton Marine Corps Base, the State Department of Parks and Recreation, and the Southern California

Edison Company, established as a mechanism for coordinating integrated preparedness and response in the event of an emergency at the San Onofre Nuclear Generating Station.

(9) "Local government" means a city or county that provides emergency response for a nuclear powerplant emergency.

(10) "Local jurisdiction" means an entity that provides emergency response for a nuclear powerplant emergency in accordance with the plans of a local government.

(11) "Plume emergency phase" means the period beginning at the onset of an emergency at a nuclear powerplant when immediate decisions for public protective actions are needed.

(12) "Recovery phase" means the period when actions designed to reduce radiation levels in the environment to acceptable levels for unrestricted use are commenced, and ending when all recovery actions have been completed.

(13) "Site" means the location of a nuclear powerplant and its surrounding emergency planning zone.

SEC. 433. Section 114655 of the Health and Safety Code is amended to read:

114655. (a) The Legislature hereby finds and declares as follows:

(1) Existing law requires the development and maintenance of a nuclear powerplant emergency response program by state and local governments based on federal and state criteria.

(2) The ~~agency~~ *office*, in consultation with the department and the counties, has investigated the consequences of a serious nuclear powerplant accident and has established plume emergency phase and ingestion pathway phase planning zones for each site. These zones imply mutually supportive emergency planning and preparedness arrangements by all levels of government.

(3) An integrated emergency planning program is necessary for the benefit of the citizens within the planning zones.

(b) Nothing in this chapter limits the activities of any government in carrying out its general responsibilities pertaining to the public health and the safety aspects of emergency response.

SEC. 434. The heading of Article 2 (commencing with Section 114660) of Chapter 4 of Part 9 of Division 104 of the Health and Safety Code is amended to read:

Article 2. Responsibilities of the ~~California Emergency Management Agency~~ *Office of Emergency Services*

SEC. 435. Section 114660 of the Health and Safety Code is amended to read:

114660. (a) The ~~agency~~ *office* is responsible for the coordination and integration of all emergency planning programs and response plans under this chapter. If there is a nuclear powerplant accident, the ~~agency~~ *office* shall coordinate information and resources to support local governments in a joint state and local government decisionmaking process.

(b) The ~~agency~~ *office* shall perform all of the following duties and functions:

(1) Coordinate the activities of all state agencies relating to preparation and implementation of the State Nuclear Power Plant Emergency Response Plan. The ~~agency~~ *office* shall be the focal point for coordinating nuclear powerplant emergency preparedness activities with local governments, other state agencies, federal agencies, and other organizations.

(2) Exercise explicit ultimate authority for allocating funds from the Nuclear Planning Assessment Special Account to local governments.

(3) Coordinate and participate in exercises of the state's nuclear emergency response plan with each site during its federally evaluated exercise.

(4) Ensure that state personnel are adequately trained to respond in the event of an actual emergency. The exercises shall include the department and other relevant state agencies.

(5) In consultation with the department, review protective action recommendations developed by the utilities and local government representatives.

(6) Coordinate planning guidance to state agencies and local governments.

(7) Ensure the development and maintenance of the State Nuclear Power Plant Emergency Response Plan and procedures necessary to carry out those responsibilities and review and approve state agency plans in draft prior to publication.

(8) Exercise discretionary authority regarding the formation of interagency agreements with state agencies having local emergency responsibilities, to ensure state agencies have updated emergency

plans and trained emergency response personnel to respond during the plume emergency phase.

(9) Conduct a study similar to that described in Section 8610.3 of the Government Code, for any nuclear powerplant with a generating capacity of 50 megawatts or more that is proposed for licensing in this state.

SEC. 436. Section 114790 of the Health and Safety Code is amended to read:

114790. The information transmitted to the radiation monitoring displays in the technical support center or emergency operating facility of a nuclear powerplant shall be simultaneously transmitted to the ~~California Emergency Management Agency~~ *Office of Emergency Services* State Warning Center.

SEC. 437. Section 114820 of the Health and Safety Code is amended to read:

114820. (a) The department, with the assistance of the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol shall, with respect to any fissile radioactive material coming within the definition of "fissile class II," "fissile class III," "large quantity radioactive materials," or "low-level radioactive waste" provided by the regulations of the United States Department of Transportation (49 C.F.R. 173.389), do all of the following:

(1) Study the adequacy of current packaging requirements for radioactive materials.

(2) Study the effectiveness of special routing and timing of radioactive materials shipments for the protection of the public health.

(3) Study the advantages of establishing a tracking system for shipments of most hazardous radioactive materials.

(b) The department, with the assistance of the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol, shall extend the nuclear emergency response plan to include radioactive materials in transit and provide training for law enforcement officers in dealing with those threats.

(c) Subject to Section 114765, the department, in cooperation with the Department of the California Highway Patrol, shall adopt, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations that, in the judgment of the department, promote the safe transportation of radioactive materials. The regulations shall (1) prescribe the use of signs designating radioactive material cargo; shall designate, in accordance with the results of the studies done pursuant to subdivision (a), the manner in which the shipper shall give notice of the shipment to appropriate authorities; (2) prescribe the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition to transport, but shall not include the equipment and operation of the carrier vehicle; and (3) be reviewed and amended, as required, pursuant to Section 114765. The regulations shall be compatible with those established by the federal agency or agencies required or permitted by federal law to establish the regulations.

(d) Subject to Section 114765, the Department of the California Highway Patrol, after consulting with the department, shall adopt regulations specifying the time at which shipments may occur and the routes that are to be used in the transportation of cargoes of hazardous radioactive materials, as those materials are defined in regulations of the department.

SEC. 438. Section 115280 of the Health and Safety Code is amended to read:

115280. (a) Each privately owned and publicly owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall install an automated alert system that will activate alarms in the California State Warning Center of the ~~California Emergency Management Agency~~ *Office of Emergency Services* in a manner to be determined by the ~~agency~~ *office* in consultation with the department and the appropriate county emergency services agency. This automated alert system shall duplicate the following alarms in the control rooms of each nuclear powerplant:

(1) Safety injection actuation (operation of the emergency core cooling system).

(2) High radiation alarm of the radioactive gas effluent stack monitor.

(b) The automated alert system shall be operative within 12 months of the effective date of this chapter.

(c) In no event shall the capital costs of complying with this section exceed two hundred thousand dollars ($200,000) per nuclear powerplant. The operator of each nuclear powerplant shall be responsible for any maintenance or recurring charges. The funds expended by privately owned utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly owned public utilities shall include funds expended under this section in their rates.

(d) The automated alert system shall be operational whenever corresponding alarms in the control rooms of each nuclear powerplant are required to be operational under the terms of the operating license issued by the Nuclear Regulatory Commission, except for periods of time required for maintenance, repair, calibration, or testing.

(e) Nothing in this section shall require plant modifications or the conduct of operations that may be in conflict with conditions of a license to operate issued by the Nuclear Regulatory Commission or other activities authorized by the Nuclear Regulatory Commission.

(f) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall make provision for immediate notification of appropriate local officials upon activation of the automated alert system pursuant to this section.

SEC. 439. Section 115295 of the Health and Safety Code is amended to read:

115295. If the Humboldt Bay Nuclear Generating Station is not in operation on the effective date of this section, the local emergency plan for it shall not be required to meet the revised emergency response plan requirements of Section 8610.5 of the Government Code until the Nuclear Regulatory Commission determines that the powerplant meets Nuclear Regulatory Commission seismic safety criteria, or until the Nuclear Regulatory Commission issues an order rescinding the restrictions imposed on the Humboldt Bay Nuclear Generating Station in its order of May 21, 1976.

In the event that the Nuclear Regulatory Commission determines that the Humboldt Bay Nuclear Generating Station meets Nuclear Regulatory Commission seismic safety standards, or issues an

order rescinding the restrictions in its order of May 21, 1976, a draft county emergency plan meeting the requirements of Section 8610.5 of the Government Code shall be submitted to the ~~California Emergency Management Agency~~ *Office of Emergency Services* for review within 180 days of the determination or rescission. Within 90 days after submission of the draft county emergency plan, approval of a final plan shall be completed by the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

SEC. 440. Section 115340 of the Health and Safety Code is amended to read:

115340. (a) The State Department of Health Services shall work with the KI working group, which is coordinated by the ~~California Emergency Management Agency~~ *Office of Emergency Services*, to establish and implement a program to oversee the distribution of potassium iodide (KI) tablets to all persons who reside, work, visit, or attend school within the state-designated emergency planning zone of an operational nuclear powerplant, in order to provide protection to members of the public in the event of an accident causing leakage of radioactive iodine, pursuant to the offer of the Nuclear Regulatory Commission to provide the state with a supply of KI tablets.

(b) In order to implement the program required by subdivision (a), the department, in consultation with local health departments and local emergency management agencies, shall develop and implement a plan for both of the following:

(1) The prompt distribution of the tablets to persons at risk in the event of a nuclear emergency, in a manner to best protect the public health.

(2) The dissemination of instructions on the use of the tablets, including the possible need for medical consultation, if indicated.

(c) The department shall work with the KI working group described in subdivision (a) to develop and implement a plan and method for the efficient storage of KI tablets.

(d) The department, in consultation with the KI working group, shall evaluate areas in the state, other than those described in subdivision (a), in which leakage of radioactive iodine is possible, and evaluate the need to store quantities of KI tablets in those areas.

(e) No later than July 1, 2004, the department shall submit a plan to the Governor and the Legislature on the establishment and

implementation of the program required pursuant to subdivisions (a) and (b), and on the development and implementation of the plan and method required in subdivision (c). No later than July 1, 2004, the department shall also submit to the Governor and the Legislature the evaluation required in subdivision (d).

SEC. 441. Section 124174.2 of the Health and Safety Code is amended to read:

124174.2. (a) The department, in cooperation with the State Department of Education, shall establish a Public School Health Center Support Program.

(b) The program, in collaboration with the State Department of Education, shall perform the following program functions:

(1) Provide technical assistance to school health centers on effective outreach and enrollment strategies to identify children who are eligible for, but not enrolled in, the Medi-Cal program, the Healthy Families Program, or any other applicable program.

(2) Serve as a liaison between organizations within the department, including, but not limited to, prevention services, primary care, and family health.

(3) Serve as a liaison between other state entities, as appropriate, including, but not limited to, the State Department of Health Care Services, the State Department of Alcohol and Drug Programs, the Department of Managed Health Care, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and the Managed Risk Medical Insurance Board.

(4) Provide technical assistance to facilitate and encourage the establishment, retention, or expansion of, school health centers. For purposes of this paragraph, technical assistance may include, but is not limited to, identifying available public and private sources of funding, which may include federal Medicaid funds, funds from third-party reimbursements, and available federal or foundation grant moneys.

(c) The department shall consult with interested parties and appropriate stakeholders, including the California School Health Centers Association and representatives of youth and parents, in carrying out its responsibilities under this article.

SEC. 442. Section 130055 of the Health and Safety Code is amended to read:

130055. Within 60 days following the office's approval of the report submitted pursuant to subdivision (b) of Section 130050, general acute hospital building owners shall do all of the following:

(a) Inform the local office of emergency services or the equivalent agency, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and the office, of each building's expected earthquake performance.

(b) Include all pertinent information regarding the building's expected earthquake performance in emergency training, response, and recovery plans.

(c) Include all pertinent information regarding the building's expected earthquake performance in capital outlay plans.

SEC. 443. Section 12406.5 of the Insurance Code is amended to read:

12406.5. (a) The commissioner shall develop, publish, and disseminate a brochure for consumers who are required to buy title insurance as part of a residential real estate transaction. The brochure shall inform consumers that competing title insurers and underwritten title companies may offer different costs or services for the title insurance required in the transaction. The brochure shall also inform consumers about the potential availability of discounts in cases involving first-time buyers, short-term rates if a home is resold in less than a five-year period, concurrent rates if the company is providing both the homeowners' and the lenders' title insurance policies in the transaction, subdivision bulk rates if the property being purchased is in a new subdivision, refinancing discounts, short-term financing rates, and discounts that may be available in other special cases. The brochure shall encourage consumers to contact more than one title insurer or underwritten title company in order to compare costs and services.

(b) The brochure developed pursuant to subdivision (a) shall include the department's toll-free consumer assistance telephone number and shall invite consumers to call the department if they need assistance.

(c) The department shall display the brochure developed pursuant to subdivision (a) on its Internet ~~website~~ *Web site*, and the brochure shall include the department's Internet address.

(d) The brochure developed pursuant to subdivision (a) shall also educate consumers about laws involving unlawful commissions and rebates associated with the placement or referral

of title insurance and shall encourage consumers to report to the department, to the ~~Department of Real Estate~~ *Bureau of Real Estate*, and to any other appropriate government agencies any suspected incidents of probable unlawful commissions or rebates subject to Article 6.5 (commencing with Section 12414).

(e) One copy of the brochure developed pursuant to this section shall be made available to a member of the public at no cost, and the department may charge its actual cost for providing additional copies. The brochure shall be made available for reproduction at no cost to any vendor who wishes to publish the brochure as written, provided any vendor who wishes to publish the brochure agrees to submit any documents containing the brochure to the department prior to publication.

SEC. 444. Section 12414.31 of the Insurance Code is amended to read:

12414.31. (a) (1) Whenever the commissioner takes any formal enforcement or disciplinary action directly against an employee of a title insurer, underwritten title company, or controlled escrow company, for malfeasance or misconduct committed by the employee in his or her performance of escrow related services, upon the action becoming final the commissioner shall notify the Real Estate Commissioner and the Commissioner of Corporations of the action or actions taken. The purpose of this notification is to alert the departments that enforcement or disciplinary action has been taken, if the employee seeks or obtains employment with entities regulated by the departments.

(2) The commissioner shall provide the Real Estate Commissioner and the Commissioner of Corporations, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Real Estate Commissioner or Commissioner of Corporations, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Commissioner of Corporations or the Real Estate Commissioner shall not be made public pursuant to this section. Notwithstanding any other provision of law, the disclosure of any underlying factual material to the Commissioner of Corporations or the Real Estate Commissioner shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

(b) The commissioner shall establish and maintain, on the Web site maintained by the Department of Insurance, a separate and readily identifiable database of all persons who have been subject to any enforcement or disciplinary action that triggers the notification requirements of this section. The database shall also contain a direct link to the databases, described in Section 10176.1 of the Business and Professions Code and Section 17423.1 of the Financial Code and required to be maintained on the Web sites of the ~~Department of Real Estate~~ *Bureau of Real Estate* and the Department of Corporations, respectively, of persons who have been subject to enforcement or disciplinary action for malfeasance or misconduct related to the escrow industry by the Commissioner of Corporations and the Real Estate Commissioner.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State of California, the Department of Insurance, the Insurance Commissioner, any other state agency, or any officer, agent, employee, consultant, or contractor of the state, for the release of any false or unauthorized information pursuant to this section, unless the release of that information was done with knowledge and malice, or for the failure to release any information pursuant to this section.

SEC. 445. Section 16020 of the Insurance Code is amended to read:

16020. The commissioner, in consultation with the ~~California Emergency Management Agency~~ *Office of Emergency Services* and other emergency service agencies, shall establish a method for identification of representatives of insurers.

SEC. 446. Section 16030 of the Insurance Code is amended to read:

16030. (a) The commissioner, in cooperation with insurers, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and other emergency service agencies, shall establish procedures for the coordination of efforts between insurers and their representatives and those of emergency response agencies.

(b) The commissioner shall assign a representative of the commissioner to work within the state's regional emergency operations centers. The representative shall complete the appropriate Standardized Emergency Management Systems training.

(c) All insurance disaster assessment team members shall complete the appropriate Standardized Emergency Management Systems training.

SEC. 447. Section 3211.91 of the Labor Code is amended to read:

3211.91. "Accredited disaster council" means a disaster council that is certified by the ~~California Emergency Management Agency~~ *Office of Emergency Services* as conforming with the rules and regulations established by the office pursuant to Article 10 (commencing with Section 8610) of Chapter 7 of Division 1 of Title 2 of the Government Code. A disaster council remains accredited only while the certification of the ~~California Emergency Management Agency~~ *Office of Emergency Services* is in effect and is not revoked.

SEC. 448. Section 4350 of the Labor Code is amended to read:

4350. The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall administer this chapter as it relates to volunteer disaster service workers.

SEC. 449. Section 433.5 of the Military and Veterans Code is amended to read:

433.5. All state armories may be used for emergency purposes on such terms and conditions as shall be mutually agreeable to the Military Department and the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

SEC. 450. Section 273.82 of the Penal Code is amended to read:

273.82. Spousal abuser prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 273.83. Enhanced prosecution efforts and resources shall include, but not be limited to, all of the following:

(a) (1) Vertical prosecutorial representation, whereby the prosecutor who, or prosecution unit that, makes all major court appearances on that particular case through its conclusion, including bail evaluation, preliminary hearing, significant law and motion litigation, trial, and sentencing.

(2) Vertical counselor representation, whereby a trained domestic violence counselor maintains liaison from initial court appearances through the case's conclusion, including the sentencing phase.

(b) The assignment of highly qualified investigators and prosecutors to spousal abuser cases. “Highly qualified” for the purposes of this chapter means any of the following:

(1) Individuals with one year of experience in the investigation and prosecution of felonies.

(2) Individuals with at least two years of experience in the investigation and prosecution of misdemeanors.

(3) Individuals who have attended a program providing domestic violence training as approved by the ~~California Emergency Management Agency~~ *Office of Emergency Services* or the Department of Justice.

(c) A significant reduction of caseloads for investigators and prosecutors assigned to spousal abuser cases.

(d) Coordination with local rape victim counseling centers, spousal abuse services programs, and victim-witness assistance programs. That coordination shall include, but not be limited to: referrals of individuals to receive client services; participation in local training programs; membership and participation in local task forces established to improve communication between criminal justice system agencies and community service agencies; and cooperating with individuals serving as liaison representatives of local rape victim counseling centers, spousal abuse victim programs, and victim-witness assistance programs.

SEC. 451. Section 326.3 of the Penal Code is amended to read:

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the ~~State of California~~ *state*.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701*l*, or 23701w of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (*l*) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote

caller bingo in accordance with the requirements of subdivision (b):

Sec. _.01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec. _.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County, or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec. _.03. Qualified Applicants: Applicants for Licensure.

(a) The following organizations are qualified to apply to the License Official for a license to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701*l*, or 23701w of the Revenue and Taxation Code.

(2) A mobile home park association of a mobile home park that is situated in the [City, County, or City and County].

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

(b) The application shall be in a form prescribed by the License Official and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the [Governing Body of the City, County, or City and County] from time to time. The following documentation shall be attached to the application, as applicable:

(1) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701*l*, or 23701w of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the License Official may refer to the Franchise Tax Board's Internet Web site to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.

(2) Other evidence as the License Official determines is necessary to verify that the applicant is a duly organized mobile home park association of a mobile home park situated in the [City, County, or City and County].

Sec. _.04. License Application: Verification.

The license shall not be issued until the License Official has verified the facts stated in the application and determined that the applicant is qualified.

Sec. _.05. Annual Licenses.

A license issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the license shall expire. A new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The [Governing Body of the City, County, or City and County] expressly reserves the right to amend or repeal this chapter at any time by resolution. If this chapter is repealed, all licenses issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing resolution.

Sec. _.06. Conditions of Licensure.

(a) Any license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions.

(b) Each license issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.

(2) The licensed organization is responsible for ensuring that the conditions of this chapter and Sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's license. At the request of the organization, the [Governing Body of the City, County, or City and County] shall hold a public hearing before revoking any license issued pursuant to this chapter.

(2) Nothing in this section shall require a city, county, or city and county to use this model ordinance in order to authorize remote caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (m), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or be dependant on the outcome of, the game.

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game. A violation of any provision of this section, other than subdivision (d), is a misdemeanor.

(f) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(g) No minors shall be allowed to participate in any remote caller bingo game.

(h) A remote caller bingo game shall not include any site that is not located within this state.

(i) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization. Nothing in this subdivision shall be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(j) (1) All remote caller bingo games shall be open to the public, not just to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor ~~of California~~ or the President of the United States declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization

authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single venue if the net proceeds of the game, after deduction of prizes and overhead expenses, are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives the California Gambling Control Commission at least 10 days' written notice of the intent to conduct that game.

(4) An organization authorized to conduct remote caller bingo games shall provide the commission with at least 30 days' advance written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for any city, county, or city and county in which the game will be played. The commission shall post the ordinance on its Internet Web site.

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at

a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other provision of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(*l*) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, “overhead costs” includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). For the purpose of keeping its overhead costs below 20 percent of gross sales, an authorized organization may elect to deduct all or a portion of the fees paid to financial institutions for the use and processing of credit card sales from the amount of gross revenues awarded for prizes. In that case, the redirected fees for the use and processing of credit card sales shall not be included in “overhead costs” as defined in the California Remote Caller Bingo Act.

Additionally, fees paid to financial institutions for the use and processing of credit card sales shall not be deducted from the proceeds retained by the charitable organization.

(n) No person shall be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, provided that the game shall have not more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than two days per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the commission, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. When an authorized organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use

and processing of credit card sales. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(q) (1) The California Gambling Control Commission shall regulate remote caller bingo, including, but not limited to, licensure and operation. The commission shall establish reasonable criteria regulating, and shall require the licensure of, the following:

(A) Any person who conducts a remote caller bingo game pursuant to this section, including, but not limited to, an employee, a person having fiduciary responsibility for a remote caller bingo game, a site manager, and a bingo caller.

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization.

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall

provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) The Department of Justice shall conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval shall be *submitted to the department and* accompanied by a nonrefundable fee, the amount of which shall be adopted by the commission by regulation.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars ($500,000) to fund operating, personnel, and other startup costs incurred by the commission *and the department* relating to this ~~act~~ *section*. Funds from the California Bingo Fund shall be available to the commission *and the department* upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission may assess and *the department may* collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(s) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(t) (1) All equipment used for remote caller bingo shall be approved in advance by the California Gambling Control Commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(u) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game

shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the ~~commission~~ *department*, provided that the controls shall be deemed approved by the ~~commission~~ *department* after 90 days from the date of submission unless disapproved.

(v) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(w) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the ~~California Gambling Control Commission~~ *department* within 120 days after the close of the vendor's fiscal year. In addition, the ~~California Gambling Control Commission~~ *department* may audit the books and records of the vendor at any time.

(2) An authorized organization that conducts remote caller bingo games shall provide copies of the records pertaining to those games to the ~~California Gambling Control Commission~~ *Department of*

Justice within 30 days after the end of each calendar quarter. In addition, those records shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the ~~California Gambling Control Commission~~ *department* within 120 days after the close of the organization's fiscal year. The audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales by the authorized organization and the amount of fees for the use and processing of credit card sales redirected from "overhead costs" and deducted from the amount of gross revenues awarded for prizes.

(3) The costs of the licensing and audits required by this section shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The ~~commission~~ *department* may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If, during an audit, the ~~commission~~ *department* identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(5) No audit required to be conducted by the ~~commission~~ *department* shall commence before January 1, 2010.

(x) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (u), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(y) The commission shall submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(z) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Department" means the Department of Justice.

~~(2)~~

(3) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 452. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the ~~State~~ *California* Constitution, if the ordinance allows games to be conducted only in accordance with this section and only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701*l* of the Revenue and Taxation Code and by mobilehome park associations, senior citizens organizations, and charitable organizations affiliated with a school district; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose

use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars ($2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three

thousand dollars ($3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up to one thousand dollars ($1,000), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment that was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars ($5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(*l*) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes available to be awarded during the conduct of any bingo games shall not exceed five hundred dollars ($500) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game of bingo includes tangible cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. Electronics or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of numbers or symbols and the public display of that drawing, and except as provided in subdivision (p). The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game may use hand-held, portable card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

(A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.

(B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.

(C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.

(D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1). Card-minding devices shall not do any of the following:

(A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.

(B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

(C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols marked or covered on the tangible bingo cards or giving an audio alert that the player's card has a prize-winning pattern.

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the ~~commission~~ *department* as meeting the requirements of this section and any additional requirements stated in regulations adopted by the commission. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the ~~commission~~ *department* and approved by the ~~commission~~ *department* prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides

card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, ~~the commission and~~ the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of any device that does not comply with the requirements of subdivision (r) of Section 19841 of the Business and Professions Code. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.

(6) The California Gambling Control Commission shall issue regulations to implement the requirements of this subdivision and may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or is not a part of a system that constitutes a video lottery terminal, slot machine, or device prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "Department" means the Department of Justice.

~~(B)~~

(C) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 453. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing

their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of ~~Corporations~~ *Business Oversight* designated by the Commissioner of ~~Corporations~~ *Business Oversight*, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of ~~Corporations~~ *Business Oversight*. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law

as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than 12 persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Branch of the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9

(commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

SEC. 454. Section 830.11 of the Penal Code is amended to read:

830.11. (a) The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the power to serve warrants as specified in Sections 1523 and 1530 during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832. The authority and powers of the persons designated under this section shall extend to any place in the state:

(1) Persons employed by the Department of ~~Financial Institutions~~ *Business Oversight* designated by the Commissioner of ~~Financial Institutions~~ *Business Oversight*, provided that the primary duty of these persons shall be the enforcement of, and investigations relating to, the provisions of law administered by the Commissioner of ~~Financial Institutions~~ *Business Oversight*.

(2) Persons employed by the ~~Department of Real Estate~~ *Bureau of Real Estate* designated by the Real Estate Commissioner, provided that the primary duty of these persons shall be the enforcement of the laws set forth in Part 1 (commencing with Section 10000) and Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code. The Real Estate Commissioner may designate persons under this section, who at the time of their designation, are assigned to the Special Investigations Unit, internally known as the Crisis Response Team.

(3) Persons employed by the State Lands Commission designated by the executive officer, provided that the primary duty of these persons shall be the enforcement of the law relating to the duties of the State Lands Commission.

(4) Persons employed as investigators of the Investigations Bureau of the Department of Insurance, who are designated by the Chief of the Investigations Bureau, provided that the primary duty of these persons shall be the enforcement of the Insurance Code and other laws relating to persons and businesses, licensed and unlicensed by the Department of Insurance, who are engaged in the business of insurance.

(5) Persons employed as investigators and investigator supervisors of the Consumer Services Division or the Rail Safety and Carrier Division of the Public Utilities Commission who are designated by the commission's executive director and approved by the commission, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 308.5 of the Public Utilities Code.

(6) (A) Persons employed by the State Board of Equalization, Investigations Division, who are designated by the board's executive director, provided that the primary duty of these persons shall be the enforcement of laws administered by the State Board of Equalization.

(B) Persons designated pursuant to this paragraph are not entitled to peace officer retirement benefits.

(7) Persons employed by the Department of Food and Agriculture and designated by the Secretary of Food and Agriculture as investigators, investigator supervisors, and investigator managers, provided that the primary duty of these persons shall be enforcement of, and investigations relating to, the

Food and Agricultural Code or Division 5 (commencing with Section 12001) of the Business and Professions Code.

(8) The Inspector General and those employees of the Office of the Inspector General as designated by the Inspector General, provided that the primary duty of those persons shall be the enforcement of the law relating to the duties of the Office of the Inspector General.

(b) Notwithstanding any other provision of law, persons designated pursuant to this section may not carry firearms.

(c) Persons designated pursuant to this section shall be included as "peace officers of the state" under paragraph (2) of subdivision (c) of Section 11105 for the purpose of receiving state summary criminal history information and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (c) of Section 11105.

SEC. 455. Section 999c of the Penal Code is amended to read:

999c. (a) There is hereby established in the ~~California Emergency Management Agency~~ *Office of Emergency Services* a program of financial and technical assistance for district attorneys' offices, designated the California Career Criminal Prosecution Program. All funds appropriated to the ~~agency~~ *office* for the purposes of this chapter shall be administered and disbursed by the ~~secretary of that agency~~ *Director of Emergency Services*, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The ~~Secretary of Emergency Management~~ *Director of Emergency Services* is authorized to allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria set forth below in Sections 999d, 999e, 999f, and 999g.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Prosecution Program, be made available to support the prosecution of felony cases. Funds available under this program shall not be subject to review as specified in Section 14780 of the Government Code.

SEC. 456. Section 999j of the Penal Code is amended to read:

999j. (a) There is hereby established in the ~~California Emergency Management Agency~~ *Office of Emergency Services* a program of financial and technical assistance for district attorneys' offices, designated the Repeat Sexual Offender Prosecution Program. All funds appropriated to the ~~agency~~ *office* for the purposes of this chapter shall be administered and disbursed by the ~~secretary of the agency~~ *Director of Emergency Services*, and shall to the greatest extent feasible, be coordinated or consolidated with any federal or local funds that may be made available for these purposes.

The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall establish guidelines for the provision of grant awards to proposed and existing programs prior to the allocation of funds under this chapter. These guidelines shall contain the criteria for the selection of agencies to receive funding, as developed in consultation with an advisory group to be known as the Repeat Sexual Offender Prosecution Program Steering Committee. The membership of the steering committee shall be designated by the secretary of the ~~agency~~ *office*.

A draft of the guidelines shall be developed and submitted to the Chairpersons of the Assembly Criminal Law and Public Safety Committee and the Senate Judiciary Committee within 60 days of the effective date of this chapter and issued within 90 days of the same effective date. These guidelines shall set forth the terms and conditions upon which the ~~California Emergency Management Agency~~ *Office of Emergency Services* is prepared to offer grants pursuant to statutory authority. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(b) The ~~Secretary of Emergency Management~~ *Director of Emergency Services* is authorized to allocate and award funds to counties in which repeat sexual offender prosecution units are established or are proposed to be established in substantial compliance with the policies and criteria set forth below in Sections 999k, 999*l*, and 999m.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Repeat Sexual Offender Prosecution Program, be made available to support the prosecution of repeat sexual offender

felony cases. Local grant awards made under this program shall not be subject to review as specified in Section 14780 of the Government Code.

SEC. 457. Section 999k of the Penal Code is amended to read:

999k. Repeat sexual offender prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 999*l*. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) Vertical prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a repeat sexual offender case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) The assignment of highly qualified investigators and prosecutors to repeat sexual offender cases. "Highly qualified" for the purposes of this chapter shall be defined as: (1) individuals with one year of experience in the investigation and prosecution of felonies or specifically the felonies listed in subdivision (a) of Section 999*l*; or (2) individuals whom the district attorney has selected to receive training as set forth in Section 13836; or (3) individuals who have attended a program providing equivalent training as approved by the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(c) A significant reduction of caseloads for investigators and prosecutors assigned to repeat sexual offender cases.

(d) Coordination with local rape victim counseling centers, child abuse services programs, and victim witness assistance programs. Coordination shall include, but not be limited to: referrals of individuals to receive client services; participation in local training programs; membership and participation in local task forces established to improve communication between criminal justice system agencies and community service agencies; and cooperating with individuals serving as liaison representatives of local rape victim counseling centers and victim witness assistance programs.

SEC. 458. Section 999n of the Penal Code is amended to read:

999n. (a) The selection criteria set forth in Section 999*l* shall be adhered to for each repeat sexual offender case unless, in the reasonable exercise of prosecutor's discretion, extraordinary

circumstances require departure from those policies in order to promote the general purposes and intent of this chapter.

(b) Each district attorney's office establishing a repeat sexual offender prosecution unit and receiving state support under this chapter shall submit the following information, on a quarterly basis, to the ~~California Emergency Management Agency~~ *Office of Emergency Services*:

(1) The number of sexual assault cases referred to the district attorney's office for possible filing.

(2) The number of sexual assault cases filed for felony prosecution.

(3) The number of sexual assault cases taken to trial.

(4) The percentage of sexual assault cases tried which resulted in conviction.

SEC. 459. Section 999p of the Penal Code is amended to read:

999p. The ~~California Emergency Management Agency~~ *Office of Emergency Services* is encouraged to utilize any federal funds which may become available in order to implement the provisions of this chapter.

SEC. 460. Section 999r of the Penal Code is amended to read:

999r. (a) There is hereby established in the ~~California Emergency Management Agency~~ *Office of Emergency Services* a program of financial and technical assistance for district attorneys' offices, designated the Child Abuser Prosecution Program. All funds appropriated to the agency for the purposes of this chapter shall be administered and disbursed by the executive director of that agency or agencies, and shall to the greatest extent feasible, be coordinated or consolidated with any federal or local funds that may be made available for these purposes.

The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall establish guidelines for the provision of grant awards to proposed and existing programs prior to the allocation of funds under this chapter. These guidelines shall contain the criteria for the selection of agencies to receive funding and the terms and conditions upon which the agency is prepared to offer grants pursuant to statutory authority. The guidelines shall not constitute rules, regulations, orders, or standards of general application. The guidelines shall be submitted to the appropriate policy committees of the Legislature prior to their adoption.

(b) The ~~Secretary of Emergency Management~~ *Director of Emergency Services* is authorized to allocate and award funds to counties in which child abuser offender prosecution units are established or are proposed to be established in substantial compliance with the policies and criteria set forth below in Sections 999s, 999t, and 999u.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Child Abuser Prosecution Program, be made available to support the prosecution of child abuser felony cases. Local grant awards made under this program shall not be subject to review as specified in Section 14780 of the Government Code.

SEC. 461. Section 999s of the Penal Code is amended to read:

999s. Child abuser prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 999t. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) Vertical prosecutorial representation, whereby the prosecutor who, or prosecution unit which, makes the initial filing or appearance in a case performs all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) The assignment of highly qualified investigators and prosecutors to child abuser cases. "Highly qualified" for the purposes of this chapter means: (1) individuals with one year of experience in the investigation and prosecution of felonies or specifically the felonies listed in subdivision (a) of Section 999*l* or 999t; or (2) individuals whom the district attorney has selected to receive training as set forth in Section 13836; or (3) individuals who have attended a program providing equivalent training as approved by the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(c) A significant reduction of caseloads for investigators and prosecutors assigned to child abuser cases.

(d) Coordination with local rape victim counseling centers, child abuse services programs, and victim witness assistance programs. That coordination shall include, but not be limited to: referrals of

individuals to receive client services; participation in local training programs; membership and participation in local task forces established to improve communication between criminal justice system agencies and community service agencies; and cooperating with individuals serving as liaison representatives of child abuse and child sexual abuse programs, local rape victim counseling centers and victim witness assistance programs.

SEC. 462. Section 999v of the Penal Code is amended to read:

999v. (a) The selection criteria set forth in Section 999t shall be adhered to for each child abuser case unless, in the reasonable exercise of prosecutor's discretion, extraordinary circumstances require departure from those policies in order to promote the general purposes and intent of this chapter.

(b) Each district attorney's office establishing a child abuser prosecution unit and receiving state support under this chapter shall submit the following information, on a quarterly basis, to the ~~California Emergency Management Agency~~ *Office of Emergency Services*:

(1) The number of child abuser cases referred to the district attorney's office for possible filing.

(2) The number of child abuser cases filed for felony prosecution.

(3) The number of sexual assault cases taken to trial.

(4) The number of child abuser cases tried which resulted in conviction.

SEC. 463. Section 999x of the Penal Code is amended to read:

999x. The ~~California Emergency Management Agency~~ *Office of Emergency Services* is encouraged to utilize any federal funds which may become available in order to implement the provisions of this chapter.

SEC. 464. Section 999y of the Penal Code is amended to read:

999y. The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall report annually to the Legislature concerning the program established by this chapter. The ~~agency~~ *office* shall prepare and submit to the Legislature on or before December 15, 2002, and within six months of the completion of subsequent funding cycles for this program, an evaluation of the Child Abuser Prosecution Program. This evaluation shall identify outcome measures to determine the effectiveness of the programs

established under this chapter, which shall include, but not be limited to, both of the following, to the extent that data is available:

(a) Child abuse conviction rates of Child Abuser Prosecution Program units compared to those of nonfunded counties.

(b) Quantification of the annual per capita costs of the Child Abuser Prosecution Program compared to the costs of prosecuting child abuse crimes in nonfunded counties.

SEC. 465. Section 1174.2 of the Penal Code is amended to read:

1174.2. (a) Notwithstanding any other law, the unencumbered balance of Item 5240-311-751 of Section 2 of the Budget Act of 1990 shall revert to the unappropriated surplus of the 1990 Prison Construction Fund. The sum of fifteen million dollars ($15,000,000) is hereby appropriated to the Department of Corrections from the 1990 Prison Construction Fund for site acquisition, site studies, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items for the purpose of constructing facilities for pregnant and parenting women's alternative sentencing programs. These funds shall not be expended for any operating costs, including those costs reimbursed by the department pursuant to subdivision (c) of Section 1174.3. Funds not expended pursuant to this chapter shall be used for planning, construction, renovation, or remodeling by, or under the supervision of, the Department of Corrections and Rehabilitation, of community-based facilities for programs designed to reduce drug use and recidivism, including, but not limited to, restitution centers, facilities for the incarceration and rehabilitation of drug offenders, multipurpose correctional centers, and centers for intensive programs for parolees. These funds shall not be expended until legislation authorizing the establishment of these programs is enacted. If the Legislature finds that the Department of Corrections and Rehabilitation has made a good faith effort to site community-based facilities, but funds designated for these community-based facilities are unexpended as of January 1, 1998, the Legislature may appropriate these funds for other Level I housing.

(b) The Department of Corrections and Rehabilitation shall purchase, design, construct, and renovate facilities in counties or multicounty areas with a population of more than 450,000 people

pursuant to this chapter. The department shall target for selection, among other counties, Los Angeles County, San Diego County, and a bay area, central valley, and an inland empire county as determined by the Secretary of the Department of Corrections and Rehabilitation. The department, in consultation with the State Department of Alcohol and Drug Programs, shall design core alcohol and drug treatment programs, with specific requirements and standards. Residential facilities shall be licensed by the State Department of Alcohol and Drug Programs in accordance with provisions of the Health and Safety Code governing licensure of alcoholism or drug abuse recovery or treatment facilities. Residential and nonresidential programs shall be certified by the State Department of Alcohol and Drug Programs as meeting its standards for perinatal services. Funds shall be awarded to selected agency service providers based upon all of the following criteria and procedures:

(1) A demonstrated ability to provide comprehensive services to pregnant women or women with children who are substance abusers consistent with this chapter. Criteria shall include, but not be limited to, each of the following:

(A) The success records of the types of programs proposed based upon standards for successful programs.

(B) Expertise and actual experience of persons who will be in charge of the proposed program.

(C) Cost-effectiveness, including the costs per client served.

(D) A demonstrated ability to implement a program as expeditiously as possible.

(E) An ability to accept referrals and participate in a process with the probation department determining eligible candidates for the program.

(F) A demonstrated ability to seek and obtain supplemental funding as required in support of the overall administration of this facility from any county, state, or federal source that may serve to support this program, including the State Department of Alcohol and Drug Programs, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the State Department of Social Services, the State Department of State Hospitals, or any county public health department. In addition, the agency shall also attempt to secure other available funding from all county, state, or federal sources for program implementation.

(G) An ability to provide intensive supervision of the program participants to ensure complete daily programming.

(2) Staff from the department shall be available to selected agencies for consultation and technical services in preparation and implementation of the selected proposals.

(3) The department shall consult with existing program operators that are then currently delivering similar program services, the State Department of Alcohol and Drug Programs, and others it may identify in the development of the program.

(4) Funds shall be made available by the department to the agencies selected to administer the operation of this program.

(5) Agencies shall demonstrate an ability to provide offenders a continuing supportive network of outpatient drug treatment and other services upon the women's completion of the program and reintegration into the community.

(6) The department may propose any variation of types and sizes of facilities to carry out the purposes of this chapter.

(7) The department shall secure all other available funding for its eligible population from all county, state, or federal sources.

(8) Each program proposal shall include a plan for the required 12-month residential program, plus a 12-month outpatient transitional services program to be completed by participating women and children.

SEC. 466. Section 1191.21 of the Penal Code is amended to read:

1191.21. (a) (1) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall develop and make available a "notification of eligibility" card for victims and derivative victims of crimes as defined in subdivision (c) of Section 13960 of the Government Code that includes, but is not limited to, the following information:

"If you have been the victim of a crime that meets the required definition, you or others may be eligible to receive payment from the California State Restitution Fund for losses directly resulting from the crime. To learn about eligibility and receive an application to receive payments, call the Victims of Crime Program at (800) 777-9229 or call your local county Victim Witness Assistance Center."

(2) At a minimum, the ~~California Emergency Management Agency~~ *Office of Emergency Services* shall develop a template

available for downloading on its Internet Web site the information requested in subdivision (b).

(b) In a case involving a crime as defined in subdivision (c) of Section 13960 of the Government Code, the law enforcement officer with primary responsibility for investigating the crime committed against the victim and the district attorney may provide the "notification of eligibility" card to the victim and derivative victim of a crime.

(c) The terms "victim" and "derivative victim" shall be given the same meaning given those terms in Section 13960 of the Government Code.

SEC. 467. Section 6241 of the Penal Code is amended to read:

6241. (a) The Substance Abuse Community Correctional Detention Centers Fund is hereby created within the State Treasury. The Board of Corrections is authorized to provide funds, as appropriated by the Legislature, for the purpose of establishing substance abuse community correctional detention centers. These facilities shall be operated locally in order to manage parole violators, those select individuals sentenced to state prison for short periods of time, and other sentenced local offenders with a known history of substance abuse, and as further defined by this chapter.

(b) The facilities constructed with funds disbursed pursuant to this chapter in a county shall contain no less than 50 percent of total beds for use by the Department of Corrections and Rehabilitation.

(1) Upon agreement, the county and the department may negotiate any other mix of state and local bed space, providing the state's proportionate share shall not be less than 50 percent in the portion of the facilities financed through state funding.

(2) Nothing in this chapter shall prohibit the county from using county funds or nonrestricted jail bond funds to build and operate additional facilities in conjunction with the centers provided for in this chapter.

(c) Thirty million dollars ($30,000,000) in funds shall be provided from the 1990 Prison Construction Fund and the 1990–B Prison Construction Fund, with fifteen million dollars ($15,000,000) each from the June 1990 bond issue and the November 1990 bond issue, for construction purposes set forth in this chapter, provided that funding is appropriated in the state

budget from the June and November 1990, prison bond issues for purposes of this chapter.

(d) Funds shall be awarded to counties based upon the following policies and criteria:

(1) Priority shall be given to urban counties with populations of 450,000 or more, as determined by Department of Finance figures. The board may allocate up to 10 percent of the funding to smaller counties or combinations of counties as pilot projects, if it concludes that proposals meet the requirements of this chapter, commensurate with the facilities and programming that a smaller county can provide.

(2) Upon application and submission of proposals by eligible counties, representatives of the board shall evaluate proposals and select recipients.

To help ensure that state-of-the-art drug rehabilitation and related programs are designed, implemented, and updated under this chapter, the board shall consult with not less than three authorities recognized nationwide with experience or expertise in the design or operation of successful programs in order to assist the board in all of the following:

(A) Drawing up criteria on which requests for proposals will be sought.

(B) Selecting proposals to be funded.

(C) Assisting the board in evaluation and operational problems of the programs, if those services are approved by the board.

Funding also shall be sought by the board from the federal government and private foundation sources in order to defray the costs of the board's responsibilities under this chapter.

(3) Preference shall be given to counties that can demonstrate a financial ability and commitment to operate the programs it is proposing for a period of at least three years and to make improvements as proposed by the department and the board.

(4) Applicants receiving awards under this chapter shall be selected from among those deemed appropriate for funding according to the criteria, policies, and procedures established by the board. Criteria shall include success records of the types of programs proposed based on nationwide standards for successful programs, if available, expertise and hands-on experience of persons who will be in charge of proposed programs, cost-effectiveness, including cost per bed, speed of construction,

a demonstrated ability to construct the maximum number of beds which shall result in an overall net increase in the number of beds in the county for state and local offenders, comprehensiveness of services, location, participation by private or community-based organizations, and demonstrated ability to seek and obtain supplemental funding as required in support of the overall administration of this facility from sources such as the Department of Alcohol and Drug Programs, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the National Institute of Corrections, the Department of Justice, and other state and federal sources.

(5) Funds disbursed under subdivision (c) shall be used for construction of substance abuse community correctional centers, with a level of security in each facility commensurate with public safety for the types of offenders being housed in or utilizing the facilities.

(6) Funds disbursed under this chapter shall not be used for the purchase of the site. Sites shall be provided by the county. However, a participating county may negotiate with the state for use of state land at nearby corrections facilities or other state facilities, provided that the locations fit in with the aims of the programs established by this chapter.

The county shall be responsible for ensuring the siting, acquisition, design, and construction of the center consistent with the California Environmental Quality Act pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(7) Staff of the department and the board, as well as persons selected by the board, shall be available to counties for consultation and technical services in preparation and implementation of proposals accepted by the board.

(8) The board also shall seek advice from the Department of Alcohol and Drug Programs in exercising its responsibilities under this chapter.

(9) Funds shall be made available to the county and county agency which is selected to administer the program by the board of supervisors of that county.

(10) Area of greatest need can be a factor considered in awarding contracts to counties.

(11) Particular consideration shall be given to counties that can demonstrate an ability to provide continuing counseling and

programming for offenders in programs established under this chapter, once the offenders have completed the programs and have returned to the community.

(12) A county may propose a variety of types and sizes of facilities to meet the needs of its plan and to provide the services for varying types of offenders to be served under this chapter. Funds granted to a county may be utilized for construction of more than one facility.

Any county wishing to use existing county-owned sites or facilities may negotiate those arrangements with the Department of Corrections and the Board of Corrections to meet the needs of its plan.

SEC. 468. Section 11160 of the Penal Code is amended to read:

11160. (a) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.

(2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4) of this subdivision, and Section 11160.2, and adopted by the ~~California Emergency Management Agency~~ *Office of Emergency Services*, or on a form

developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" shall include any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261.

(15) Spousal rape, in violation of Section 262.

(16) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.

(17) Child abuse or endangerment, in violation of Section 273a or 273d.

(18) Abuse of spouse or cohabitant, in violation of Section 273.5.

(19) Sodomy, in violation of Section 286.

(20) Lewd and lascivious acts with a child, in violation of Section 288.

(21) Oral copulation, in violation of Section 288a.

(22) Sexual penetration, in violation of Section 289.

(23) Elder abuse, in violation of Section 368.

(24) An attempt to commit any crime specified in paragraphs (1) to (23), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) No supervisor or administrator shall impede or inhibit the reporting duties required under this section and no person making a report pursuant to this section shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not

require any employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

SEC. 469. Section 11160.1 of the Penal Code is amended to read:

11160.1. (a) Any health practitioner employed in any health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, performs a forensic medical examination on any person in the custody of law enforcement from whom evidence is sought in connection with the commission or investigation of a crime of sexual assault, as described in subdivision (d) of Section 11160, shall prepare a written report. The report shall be on a standard form developed by, or at the direction of, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and shall be immediately provided to the law enforcement agency who has custody of the individual examined.

(b) The examination and report is subject to the confidentiality requirements of the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code), the physician-patient privilege pursuant to Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, and the privilege of official information pursuant to Article 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code.

(c) The report shall be released upon request, oral or written, to any person or agency involved in any related investigation or prosecution of a criminal case, including, but not limited to, a law enforcement officer, district attorney, city attorney, crime laboratory, county licensing agency, or coroner. The report may be released to defense counsel or another third party only through discovery of documents in the possession of a prosecuting agency or following the issuance of a lawful court order authorizing the release of the report.

(d) A health practitioner who makes a report in accordance with this section shall not incur civil or criminal liability. No person, agency, or their designee required or authorized to report pursuant

to this section who takes photographs of a person suspected of being a person subject to a forensic medical examination as described in this section shall incur any civil or criminal liability for taking the photographs, causing the photographs to be taken, or disseminating the photographs to a law enforcement officer, district attorney, city attorney, crime laboratory, county licensing agency, or coroner with the reports required in accordance with this section. However, this subdivision shall not be deemed to grant immunity from civil or criminal liability with respect to any other use of the photographs.

(e) Section 11162 does not apply to this section.

(f) With the exception of any health practitioner who has entered into a contractual agreement to perform forensic medical examinations, no health practitioner shall be required to perform a forensic medical examination as part of his or her duties as a health practitioner.

SEC. 470. Section 11161.2 of the Penal Code is amended to read:

11161.2. (a) The Legislature finds and declares that adequate protection of victims of domestic violence and elder and dependent adult abuse has been hampered by lack of consistent and comprehensive medical examinations. Enhancing examination procedures, documentation, and evidence collection will improve investigation and prosecution efforts.

(b) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall, in cooperation with the State Department of *Public* Health ~~Services~~, the Department of Aging and the ombudsman program, the State Department of Social Services, law enforcement agencies, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs' Association, the California Medical Association, the California Police Chiefs' Association, domestic violence advocates, the California Medical Training Center, adult protective services, and other appropriate experts:

(1) Establish medical forensic forms, instructions, and examination protocol for victims of domestic violence and elder and dependent adult abuse and neglect using as a model the form and guidelines developed pursuant to Section 13823.5. The form

should include, but not be limited to, a place for a notation concerning each of the following:

(A) Notification of injuries and a report of suspected domestic violence or elder or dependent adult abuse and neglect to law enforcement authorities, Adult Protective Services, or the State Long-Term Care Ombudsmen, in accordance with existing reporting procedures.

(B) Obtaining consent for the examination, treatment of injuries, collection of evidence, and photographing of injuries. Consent to treatment shall be obtained in accordance with the usual hospital policy. A victim shall be informed that he or she may refuse to consent to an examination for evidence of domestic violence and elder and dependent adult abuse and neglect, including the collection of physical evidence, but that refusal is not a ground for denial of treatment of injuries and disease, if the person wishes to obtain treatment and consents thereto.

(C) Taking a patient history of domestic violence or elder or dependent adult abuse and neglect and other relevant medical history.

(D) Performance of the physical examination for evidence of domestic violence or elder or dependent adult abuse and neglect.

(E) Collection of physical evidence of domestic violence or elder or dependent adult abuse.

(F) Collection of other medical and forensic specimens, as indicated.

(G) Procedures for the preservation and disposition of evidence.

(H) Complete documentation of medical forensic exam findings.

(2) Determine whether it is appropriate and forensically sound to develop separate or joint forms for documentation of medical forensic findings for victims of domestic violence and elder and dependent adult abuse and neglect.

(3) The forms shall become part of the patient's medical record pursuant to guidelines established by the agency or agencies designated by the ~~California Emergency Management Agency~~ *Office of Emergency Services* advisory committee and subject to the confidentiality laws pertaining to release of medical forensic examination records.

(c) The forms shall be made accessible for use on the Internet.

SEC. 471. Section 11171 of the Penal Code is amended to read:

11171. (a) (1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.

(2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.

(b) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs' Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

(c) The forms shall include, but not be limited to, a place for notation concerning each of the following:

(1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.

(2) Addressing relevant consent issues, if indicated.

(3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.

(4) The performance of a physical examination for evidence of child physical abuse or neglect.

(5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.

(6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.

(7) Procedures for the preservation and disposition of evidence.

(8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.

(9) An assessment as to whether there are findings that indicate physical abuse or neglect.

(d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the ~~California Emergency Management Agency~~ *Office of Emergency Services* and subject to the confidentiality laws pertaining to the release of medical forensic examination records.

(e) The forms shall be made accessible for use on the Internet.

SEC. 472. Section 11174.34 of the Penal Code is amended to read:

11174.34. (a) (1) The purpose of this section shall be to coordinate and integrate state and local efforts to address fatal child abuse or neglect, and to create a body of information to prevent child deaths.

(2) It is the intent of the Legislature that the California State Child Death Review Council, the Department of Justice, the State Department of Social Services, the State Department of Health Services, and state and local child death review teams shall share data and other information necessary from the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics and the Department of Social Services Child Welfare Services/Case Management System files to establish accurate information on the nature and extent of child abuse- or neglect-related fatalities in California as those documents relate to child fatality cases. Further, it is the intent of the Legislature to ensure that records of child abuse- or neglect-related fatalities are entered into the State Department of Social Services, Child Welfare Services/Case Management System. It is also the intent that training and technical assistance be provided to child death review teams and professionals in the child protection system regarding multiagency case review.

(b) (1) It shall be the duty of the California State Child Death Review Council to oversee the statewide coordination and integration of state and local efforts to address fatal child abuse or neglect and to create a body of information to prevent child deaths. The Department of Justice, the State Department of Social Services, the State Department of Health Services, the California Coroner's Association, the County Welfare Directors Association, Prevent Child Abuse California, the California Homicide Investigators

Association, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Inter-Agency Council on Child Abuse and Neglect/National Center on Child Fatality Review, the California Conference of Local Health Officers, the California Conference of Local Directors of Maternal, Child, and Adolescent Health, the California Conference of Local Health Department Nursing Directors, the California District Attorneys Association, and at least three regional representatives, chosen by the other members of the council, working collaboratively for the purposes of this section, shall be known as the California State Child Death Review Council. The council shall select a chairperson or cochairpersons from the members.

(2) The Department of Justice is hereby authorized to carry out the purposes of this section by coordinating council activities and working collaboratively with the agencies and organizations in paragraph (1), and may consult with other representatives of other agencies and private organizations, to help accomplish the purpose of this section.

(c) Meetings of the agencies and organizations involved shall be convened by a representative of the Department of Justice. All meetings convened between the Department of Justice and any organizations required to carry out the purpose of this section shall take place in this state. There shall be a minimum of four meetings per calendar year.

(d) To accomplish the purpose of this section, the Department of Justice and agencies and organizations involved shall engage in the following activities:

(1) Analyze and interpret state and local data on child death in an annual report to be submitted to local child death review teams with copies to the Governor and the Legislature, no later than July 1 each year. Copies of the report shall also be distributed to public officials in the state who deal with child abuse issues and to those agencies responsible for child death investigation in each county. The report shall contain, but not be limited to, information provided by state agencies and the county child death review teams for the preceding year.

The state data shall include the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics, and the State

Department of Social Services Child Welfare Services/Case Management System.

(2) In conjunction with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, coordinate statewide and local training for county death review teams and the members of the teams, including, but not limited to, training in the application of the interagency child death investigation protocols and procedures established under Sections 11166.7 and 11166.8 to identify child deaths associated with abuse or neglect.

(e) The State Department of *Public* Health ~~Services~~, in collaboration with the California State Child Death Review Council, shall design, test and implement a statewide child abuse or neglect fatality tracking system incorporating information collected by local child death review teams. The department shall:

(1) Establish a minimum case selection criteria and review protocols of local child death review teams.

(2) Develop a standard child death review form with a minimum core set of data elements to be used by local child death review teams, and collect and analyze that data.

(3) Establish procedural safeguards in order to maintain appropriate confidentiality and integrity of the data.

(4) Conduct annual reviews to reconcile data reported to the State Department of Health Services Vital Statistics, Department of Justice Homicide Files and Child Abuse Central Index, and the State Department of Social Services Child Welfare Services/Case Management System data systems, with data provided from local child death review teams.

(5) Provide technical assistance to local child death review teams in implementing and maintaining the tracking system.

(6) This subdivision shall become operative on July 1, 2000, and shall be implemented only to the extent that funds are appropriated for its purposes in the Budget Act.

(f) Local child death review teams shall participate in a statewide child abuse or neglect fatalities monitoring system by:

(1) Meeting the minimum standard protocols set forth by the State Department of *Public* Health ~~Services~~ in collaboration with the California State Child Death Review Council.

(2) Using the standard data form to submit information on child abuse or neglect fatalities in a timely manner established by the State Department of *Public* Health ~~Services~~.

(g) The California State Child Death Review Council shall monitor the implementation of the monitoring system and incorporate the results and findings of the system and review into an annual report.

(h) The Department of Justice shall direct the creation, maintenance, updating, and distribution electronically and by paper, of a statewide child death review team directory, which shall contain the names of the members of the agencies and private organizations participating under this section, and the members of local child death review teams and local liaisons to those teams. The department shall work in collaboration with members of the California State Child Death Review Council to develop a directory of professional experts, resources, and information from relevant agencies and organizations and local child death review teams, and to facilitate regional working relationships among teams. The Department of Justice shall maintain and update these directories annually.

(i) The agencies or private organizations participating under this section shall participate without reimbursement from the state. Costs incurred by participants for travel or per diem shall be borne by the participant agency or organization. The participants shall be responsible for collecting and compiling information to be included in the annual report. The Department of Justice shall be responsible for printing and distributing the annual report using available funds and existing resources.

(j) The ~~California Emergency Management Agency~~ *Office of Emergency Services*, in coordination with the State Department of Social Services, the Department of Justice, and the California State Child Death Review Council shall contract with state or nationally recognized organizations in the area of child death review to conduct statewide training and technical assistance for local child death review teams and relevant organizations, develop standardized definitions for fatal child abuse or neglect, develop protocols for the investigation of fatal child abuse or neglect, and address relevant issues such as grief and mourning, data collection, training for medical personnel in the identification of child abuse or neglect fatalities, domestic violence fatality review, and other related topics and programs. The provisions of this subdivision shall only be implemented to the extent that the agency can absorb the costs of implementation within its current funding, or to the

extent that funds are appropriated for its purposes in the Budget Act.

(k) Law enforcement and child welfare agencies shall cross-report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings.

(*l*) County child welfare agencies shall create a record in the Child Welfare Services/Case Management System (CWS/CMS) on all cases of child death suspected to be related to child abuse or neglect, whether or not the deceased child has any known surviving siblings. Upon notification that the death was determined not to be related to child abuse or neglect, the child welfare agency shall enter that information into the Child Welfare Services/Case Management System.

SEC. 473. Section 11501 of the Penal Code is amended to read:

11501. (a) There is hereby established in the ~~California Emergency Management Agency~~ *Office of Emergency Services*, a program of financial assistance to provide for statewide programs of education, training, and research for local public prosecutors and public defenders. All funds made available to the ~~agency~~ *office* for the purposes of this chapter shall be administered and distributed by the ~~secretary of the agency~~ *Director of Emergency Services*.

(b) The ~~Secretary of Emergency Management~~ *Director of Emergency Services* is authorized to allocate and award funds to public agencies or private nonprofit organizations for purposes of establishing statewide programs of education, training, and research for public prosecutors and public defenders, which programs meet criteria established pursuant to Section 11502.

SEC. 474. Section 11502 of the Penal Code is amended to read:

11502. (a) Criteria for selection of education, training, and research programs for local public prosecutors and public defenders shall be developed by the ~~California Emergency Management Agency~~ *Office of Emergency Services* in consultation with an advisory group entitled the Prosecutors and Public Defenders Education and Training Advisory Committee.

(b) The Prosecutors and Public Defenders Education and Training Advisory Committee shall be composed of six local public

prosecutors and six local public defender representatives, all of whom are appointed by the ~~Secretary of Emergency Management~~ *Director of Emergency Services*, who shall provide staff services to the advisory committee. In appointing the members of the committee, the ~~secretary~~ *director* shall invite the Attorney General, the State Public Defender, the Speaker of the Assembly, and the Senate President pro Tempore to participate as ex officio members of the committee.

(c) The ~~California Emergency Management Agency~~ *Office of Emergency Services*, in consultation with the advisory committee, shall develop specific guidelines including criteria for selection of organizations to provide education, training, and research services.

(d) In determining the equitable allocation of funds between prosecution and defense functions, the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the advisory committee shall give consideration to the amount of local government expenditures on a statewide basis for the support of those functions.

(e) The administration of the overall program shall be performed by the ~~California Emergency Management Agency~~ *Office of Emergency Services*. The ~~agency~~ *office* may, out of any appropriation for this program, expend an amount not to exceed 7.5 percent for any fiscal year for those purposes.

(f) No funds appropriated pursuant to this title shall be used to support a legislative advocate.

(g) To the extent necessary to meet the requirements of the State Bar of California relating to certification of training for legal specialists, the executive director shall ensure that, where appropriate, all programs funded under this title are open to all members of the State Bar of California. The program guidelines established pursuant to subdivision (c) shall provide for the reimbursement of costs for all participants deemed eligible by the ~~California Emergency Management Agency~~ *Office of Emergency Services*, in conjunction with the Legal Training Advisory Committee, by means of course attendance.

SEC. 475. Section 11504 of the Penal Code is amended to read:

11504. To the extent funds are appropriated from the Assessment Fund to the Local Public Prosecutors and Public

Defenders Training Fund established pursuant to Section 11503, the ~~California Emergency Management Agency~~ *Office of Emergency Services* shall allocate financial resources for statewide programs of education, training, and research for local public prosecutors and public defenders.

SEC. 476. Section 13100.1 of the Penal Code is amended to read:

13100.1. (a) The Attorney General shall appoint an advisory committee to the California-Criminal Index and Identification (Cal-CII) system to assist in the ongoing management of the system with respect to operating policies, criminal records content, and records retention. The committee shall serve at the pleasure of the Attorney General, without compensation, except for reimbursement of necessary expenses.

(b) The committee shall consist of the following representatives:

(1) One representative from the California Police Chiefs' Association.

(2) One representative from the California Peace Officers' Association.

(3) Three representatives from the California State Sheriffs' Association.

(4) One trial judge appointed by the Judicial Council.

(5) One representative from the California District Attorneys Association.

(6) One representative from the California Court Clerks' Association.

(7) One representative from the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(8) One representative from the Chief Probation Officers' Association.

(9) One representative from the Department of Corrections and Rehabilitation.

(10) One representative from the Department of the California Highway Patrol.

(11) One member of the public, appointed by the Senate Committee on Rules, who is knowledgeable and experienced in the process of utilizing background clearances.

(12) One member of the public, appointed by the Speaker of the Assembly, who is knowledgeable and experienced in the process of utilizing background clearances.

SEC. 477. Section 13800 of the Penal Code is amended to read:

13800. Unless otherwise required by context, as used in this title~~, on and after July 1, 2012~~:

(a) "Agency" means the~~ California Emergency Management Agency~~ *Office of Emergency Services*.

(b) "Board" means the Board of State and Community Corrections.

(c) "Federal acts" means Subchapter V of Chapter 46 of the federal Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Sec. 3750 et seq.), the federal Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. Sec. 5601 et seq.), and any act or acts amendatory or supplemental thereto.

(d) "Local boards" means local criminal justice planning boards.

(e) "Executive director" means the Executive Director of the Board of State and Community Corrections.

(f) This section shall become operative on July 1, 2012.

SEC. 478. Section 13820 of the Penal Code is amended to read:

13820. (a) The Office of Criminal Justice Planning is hereby abolished. The duties and obligations of that office, and all powers and authority formerly exercised by that office, shall be transferred to and assumed by the~~ California Emergency Management Agency~~ *Office of Emergency Services*, with the exception of the duties described in Section 6024, which shall be assumed by the Board of State and Community Corrections.

(b) Except for this section, the phrase "Office of Criminal Justice Planning" or any reference to that phrase in this code shall be construed to mean or refer to the~~ agency~~ *Office of Emergency Services*. Any reference to the executive director of the Office of Criminal Justice Planning in this code shall be construed to mean the~~ secretary~~ *Director of Emergency Services*.

SEC. 479. Section 13821 of the Penal Code is amended to read:

13821. (a) For the 2011–12 fiscal year, the Controller shall allocate 9 percent of the amount deposited in the Local Law Enforcement Services Account in the Local Revenue Fund 2011 to the~~ California Emergency Management Agency~~ *Office of Emergency Services*. The Controller shall allocate these funds on a quarterly basis beginning on October 1. These funds shall be

allocated by the Controller pursuant to a schedule provided by the ~~California Emergency Management Agency~~ *Office of Emergency Services* which shall be developed according to the ~~agency's~~ *office's* existing programmatic guidelines and the following percentages:

(1) The California Multi-Jurisdictional Methamphetamine Enforcement Teams shall receive 47.52 percent in the 2011–12 fiscal year.

(2) The Multi-Agency Gang Enforcement Consortium shall receive 0.2 percent in the 2011–12 fiscal year.

(3) The Sexual Assault Felony Enforcement Teams, authorized by Section 13887, shall receive 12.48 percent in the 2011–12 fiscal year.

(4) The High Technology Theft Apprehension and Prosecution Program, authorized by Section 13848.2, shall receive 26.83 percent in the 2011–12 fiscal year.

(5) The Gang Violence Suppression Program authorized by Section 13826.1, shall receive 3.91 percent in the 2011–12 fiscal year.

(6) The Central Valley and Central Coast Rural Crime Prevention Programs, authorized by Sections 14170 and 14180, shall receive 9.06 percent in the 2011–12 fiscal year.

(b) For the 2011–12 fiscal year, the ~~California Emergency Management Agency~~ *Office of Emergency Services* may be reimbursed up to five hundred eleven thousand dollars ($511,000) from the funds allocated in subdivision (a) for program administrative costs.

(c) Commencing with the 2012–13 fiscal year, the Controller shall allocate 8.35 percent of the amount deposited in the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011 and shall distribute the moneys as follows:

(1) Commencing with the 2012–13 fiscal year, the California Multi-Jurisdictional Methamphetamine Enforcement Teams shall receive 47.52 percent and shall be allocated by the Controller according to the following schedule:

Alameda County	1.7109%
Alpine County	0.6327%
Amador County	0.6327%

Butte County	1.6666%
Calaveras County	0.8435%
Colusa County	0.1623%
Contra Costa County	1.3163%
Del Norte County	0.2167%
El Dorado County	1.3716%
Fresno County	5.3775%
Glenn County	0.2130%
Humboldt County	1.0198%
Imperial County	2.5510%
Inyo County	0.6327%
Kern County	5.6938%
Kings County	0.9701%
Lake County	0.6604%
Lassen County	0.2643%
Los Angeles County	5.3239%
Madera County	0.9701%
Marin County	0.6292%
Mariposa County	0.6327%
Mendocino County	0.6846%
Merced County	1.8136%
Modoc County	0.0734%
Mono County	0.6327%
Monterey County	0.9018%
Napa County	0.6803%
Nevada County	0.7482%
Orange County	1.5661%
Placer County	2.6395%
Plumas County	0.1516%
Riverside County	5.6395%
Sacramento County	10.0169%
San Benito County	0.8404%
San Bernardino County	8.9364%
San Diego County	2.5510%
San Francisco County	1.0034%
San Joaquin County	4.6394%
San Luis Obispo County	1.3483%
San Mateo County	1.1224%

Santa Barbara County	1.3483%
Santa Clara County	2.0612%
Santa Cruz County	0.8333%
Shasta County	1.3426%
Sierra County	0.0245%
Siskiyou County	0.3401%
Solano County	1.8979%
Sonoma County	1.1610%
Stanislaus County	3.6272%
Sutter County	0.7177%
Tehama County	0.4808%
Trinity County	0.1044%
Tulare County	2.5306%
Tuolumne County	0.6327%
Ventura County	1.3483%
Yolo County	1.5215%
Yuba County	0.5466%

(2) Commencing with the 2012–13 fiscal year, the Multi-Agency Gang Enforcement Consortium shall receive 0.2 percent and shall be allocated by the Controller to Fresno County.

(3) Commencing with the 2012–13 fiscal year, the Sexual Assault Felony Enforcement Teams, authorized by Section 13887, shall receive 12.48 percent and shall be allocated by the Controller according to the following schedule:

Los Angeles County	21.0294%
Riverside County	12.8778%
Sacramento County	14.0198%
San Luis Obispo County	12.0168%
Santa Clara County	17.0238%
Shasta County	12.0168%
Tulare County	11.0156%

(4) Commencing with the 2012–13 fiscal year, the High Technology Theft Apprehension and Prosecution Program, authorized by Section 13848.2, shall receive 26.83 percent and shall be allocated by the Controller according to the following schedule:

Los Angeles County	18.25%
Marin County	18.25%
Marin County, for use by the Department of Justice in implementing subdivision (b) of Section 13848.4	7.00%
Marin County, for use by the California District Attorneys Association in implementing subdivision (b) of Section 13848.4	1.75%
Sacramento County	18.25%
San Diego County	18.25%
Santa Clara County	18.25%

(5) Commencing with the 2012–13 fiscal year, the Gang Violence Suppression Program, authorized by Section 13826.1, shall receive 3.91 percent and shall be allocated by the Controller according to the following schedule:

Alameda County	9.6775%
Los Angeles County	22.5808%
Monterey County	9.6775%
Napa County	17.7417%
City of Oxnard	17.7417%
City of Sacramento	22.5808%

(6) Commencing with the 2012–13 fiscal year, the Central Valley and Central Coast Rural Crime Prevention Programs, authorized by Sections 14170 and 14180, shall receive 9.06 percent and shall be allocated by the Controller according to the following schedule:

Fresno County	18.5588%
Kern County	13.7173%
Kings County	6.8587%
Madera County	4.4380%
Merced County	6.8587%
Monterey County	7.2411%
San Benito County	4.8273%
San Joaquin County	6.8587%
San Luis Obispo County	2.1723%
Santa Barbara County	3.6206%

Santa Cruz County	1.4482%
Stanislaus County	6.8587%
Tulare County	16.5415%

(d) For any of the programs described in this section, funding will be distributed by local agencies as would otherwise have occurred pursuant to Section 1 of Chapter 13 of the Statutes of 2011, First Extraordinary Session.

SEC. 480. Section 13823.2 of the Penal Code is amended to read:

13823.2. (a) The Legislature hereby finds and declares all of the following:

(1) That violent and serious crimes are being committed against the elderly on an alarmingly regular basis.

(2) That in 1985, the United States Department of Justice reported that approximately 1 in every 10 elderly households in the nation would be touched by crime.

(3) That the California Department of Justice, based upon limited data received from local law enforcement agencies, reported that approximately 10,000 violent crimes were committed against elderly victims in 1985.

(4) That while the elderly may not be the most frequent targets of crime, when they are victimized the impact of each vicious attack has long-lasting effects. Injuries involving, for example, a broken hip may never heal properly and often leave the victim physically impaired. The loss of money used for food and other daily living expenses for these costs may be life-threatening for the older citizen on a fixed income. In addition, stolen or damaged property often cannot be replaced.

(5) Although the State of California currently funds programs to provide assistance to victims of crime and to provide general crime prevention information, there are limited specialized efforts to respond directly to the needs of elderly victims or to provide prevention services tailored for the senior population.

(b) It is the intent of the Legislature that victim services, crime prevention, and criminal justice training programs funded by the ~~agency~~ *Office of Emergency Services* shall include, consistent with available resources, specialized components that respond to the diverse needs of elderly citizens residing in the state.

SEC. 481. Section 13823.3 of the Penal Code is amended to read:

13823.3. The ~~agency~~ *Office of Emergency Services* may expend funds for local domestic violence programs, subject to the availability of funds therefor.

SEC. 482. Section 13823.4 of the Penal Code is amended to read:

13823.4. (a) The Legislature finds the problem of family violence to be of serious and increasing magnitude. The Legislature also finds that acts of family violence often result in other crimes and social problems.

(b) There is in the ~~agency~~ *Office of Emergency Services*, a Family Violence Prevention Program. This program shall provide financial and technical assistance to local domestic and family violence centers in implementing family violence prevention programs.

The goals and functions of the program shall include all of the following:

(1) Promotion of community involvement through public education geared specifically toward reaching and educating the friends and neighbors of members of violent families.

(2) Development and dissemination of model protocols for the training of criminal justice system personnel in domestic violence intervention and prevention.

(3) Increasing citizen involvement in family violence prevention.

(4) Identification and testing of family violence prevention models.

(5) Replication of successful models, as appropriate, through the state.

(6) Identification and testing of domestic violence model protocols and intervention systems in major service delivery institutions.

(7) Development of informational materials and seminars to enable emulation or adaptation of the models by other communities.

(8) Provision of domestic violence prevention education and skills to students in schools.

(c) The ~~secretary~~ *Director of Emergency Services* shall allocate funds to local centers meeting the criteria for funding that shall be established by the ~~agency~~ *Office of Emergency Services* in consultation with practitioners and experts in the field of family

violence prevention. All centers receiving funds pursuant to this section shall have had an ongoing recognized program, supported by either public or private funds, dealing with an aspect of family violence, for at least two years prior to the date specified for submission of applications for funding pursuant to this section. All centers funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section. Sixty percent of the state funds received pursuant to this section shall be used to develop and implement model program protocols and materials. Forty percent of the state funds received pursuant to this section shall be allocated to programs to disseminate model program protocols and materials. Dissemination shall include training for domestic violence agencies in California. Each of the programs funded under this section shall focus on no more than two targeted areas. These targeted model areas shall be determined by the ~~agency~~ *Office of Emergency Services* in consultation with practitioners and experts in the field of domestic violence, using the domestic violence model priorities survey of the California Alliance Against Domestic Violence.

Centers receiving funding shall provide matching funds of at least 10 percent of the funds received pursuant to this section.

(d) The ~~agency~~ *Office of Emergency Services* shall develop and disseminate throughout the state information and materials concerning family violence prevention, including, but not limited to, a procedures manual on prevention models. The ~~agency~~ *Office of Emergency Services* shall also establish a resource center for the collection, retention, and distribution of educational materials related to family violence and its prevention.

SEC. 483. Section 13823.5 of the Penal Code is amended to read:

13823.5. (a) The ~~agency~~ *Office of Emergency Services*, with the assistance of the advisory committee established pursuant to Section 13836, shall establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom. The protocol shall contain recommended methods for meeting the standards specified in Section 13823.11.

(b) In addition to the protocol, the ~~agency~~ *Office of Emergency Services* shall develop informational guidelines, containing general reference information on evidence collection and examination of victims of, and psychological and medical treatment for victims of, sexual assault and attempted sexual assault, including child molestation.

In developing the protocol and the informational guidelines, the ~~agency~~ *Office of Emergency Services* and the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assault; qualified health care professionals, criminalists, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officials.

(c) The ~~agency~~ *Office of Emergency Services*, in cooperation with the State Department of *Public* Health ~~Services~~ and the Department of Justice, shall adopt a standard and a complete form or forms for the recording of medical and physical evidence data disclosed by a victim of sexual assault or attempted sexual assault, including child molestation.

Each qualified health care professional who conducts an examination for evidence of a sexual assault or an attempted sexual assault, including child molestation, shall use the standard form or forms adopted pursuant to this section, and shall make those observations and perform those tests as may be required for recording of the data required by the form. The forms shall be subject to the same principles of confidentiality applicable to other medical records.

The ~~agency~~ *Office of Emergency Services* shall make copies of the standard form or forms available to every public or private general acute care hospital, as requested.

The standard form shall be used to satisfy the reporting requirements specified in Sections 11160 and 11161 in cases of sexual assault, and may be used in lieu of the form specified in Section 11168 for reports of child abuse.

(d) The ~~agency~~ *Office of Emergency Services* shall distribute copies of the protocol and the informational guidelines to every general acute care hospital, law enforcement agency, and prosecutor's office in the state.

(e) As used in this chapter, "qualified health care professional" means a physician and surgeon currently licensed pursuant to

Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a nurse currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon who conducts examinations or provides treatment as described in Section 13823.9 in a general acute care hospital or in a physician and surgeon's office.

SEC. 484. Section 13823.6 of the Penal Code is amended to read:

13823.6. The ~~agency~~ *Office of Emergency Services* may secure grants, donations, or other funding for the purpose of funding any statewide task force on sexual assault of children that may be established and administered by the Department of Justice.

SEC. 485. Section 13823.9 of the Penal Code is amended to read:

13823.9. (a) Every public or private general acute care hospital that examines a victim of sexual assault or attempted sexual assault, including child molestation, shall comply with the standards specified in Section 13823.11 and the protocol and guidelines adopted pursuant to Section 13823.5.

(b) Each county with a population of more than 100,000 shall arrange that professional personnel trained in the examination of victims of sexual assault, including child molestation, shall be present or on call either in the county hospital which provides emergency medical services or in any general acute care hospital which has contracted with the county to provide emergency medical services. In counties with a population of 1,000,000 or more, the presence of these professional personnel shall be arranged in at least one general acute care hospital for each 1,000,000 persons in the county.

(c) Each county shall designate at least one general acute care hospital to perform examinations on victims of sexual assault, including child molestation.

(d) (1) The protocol published by the ~~agency~~ *Office of Emergency Services* shall be used as a guide for the procedures to be used by every public or private general acute care hospital in the state for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom.

(2) The informational guide developed by the ~~agency~~ *Office of Emergency Services* shall be consulted where indicated in the protocol, as well as to gain knowledge about all aspects of examination and treatment of victims of sexual assault and child molestation.

SEC. 486. Section 13823.12 of the Penal Code is amended to read:

13823.12. Failure to comply fully with Section 13823.11 or with the protocol or guidelines, or to utilize the form established by the ~~agency~~ *Office of Emergency Services*, shall not constitute grounds to exclude evidence, nor shall the court instruct or comment to the trier of fact in any case that less weight may be given to the evidence based on the failure to comply.

SEC. 487. Section 13823.13 of the Penal Code is amended to read:

13823.13. (a) The ~~agency~~ *Office of Emergency Services* shall develop a course of training for qualified health care professionals relating to the examination and treatment of victims of sexual assault. In developing the curriculum for the course, the ~~agency~~ *Office of Emergency Services* shall consult with health care professionals and appropriate law enforcement agencies. The ~~agency~~ *Office of Emergency Services* shall also obtain recommendations from the same health care professionals and appropriate law enforcement agencies on the best means to disseminate the course of training on a statewide basis. The ~~agency~~ *Office of Emergency Services* is encouraged to designate a course of training for qualified health care professionals, as described in this section, and shall partner with other allied professionals training courses, such as sexual assault investigator training administered by the Peace Officer Standards and Training (POST), sexual assault prosecutor training as administered by the California District Attorneys Association (CDAA), or sexual assault advocate training as administered by the California Coalition Against Sexual Assault (CalCASA).

(b) The training course developed pursuant to subdivision (a) shall be designed to train qualified health care professionals to do all of the following:

(1) Perform a health assessment of victims of sexual assault in accordance with any applicable minimum standards set forth in Section 13823.11.

(2) Collect and document physical and laboratory evidence in accordance with any applicable minimum standards set forth in Section 13823.11.

(3) Provide information and referrals to victims of sexual assault to enhance the continuity of care of victims.

(4) Present testimony in court.

(c) As used in this section, "qualified health care professional" means a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a nurse currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who works in consultation with a physician and surgeon or who conducts examinations described in Section 13823.9 in a general acute care hospital or in the office of a physician and surgeon, a nurse practitioner currently licensed pursuant to Chapter 6 (commencing with Section 2834) of Division 2 of the Business and Professions Code, or a physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

(d) As used in this section, "appropriate law enforcement agencies" may include, but shall not be limited to, the Attorney General of the State of California, any district attorney, and any agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

SEC. 488. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the ~~California Emergency Management Agency (Cal EMA)~~ *Office of Emergency Services* shall be to ensure that all victims of domestic violence served by the ~~Cal EMA~~ *Office of Emergency Services* Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the ~~Cal EMA~~ *Office of Emergency Services* a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a

demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The ~~Cal EMA~~ *Office of Emergency Services* shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

(1) Twenty-four-hour crisis hotlines.

(2) Counseling.

(3) Business centers.

(4) Emergency "safe" homes or shelters for victims and families.

(5) Emergency food and clothing.

(6) Emergency response to calls from law enforcement.

(7) Hospital emergency room protocol and assistance.

(8) Emergency transportation.

(9) Supportive peer counseling.

(10) Counseling for children.

(11) Court and social service advocacy.

(12) Legal assistance with temporary restraining orders, devices, and custody disputes.

(13) Community resource and referral.

(14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the ~~Cal EMA~~ *Office of Emergency Services* and the advisory committee established pursuant to Section 13823.16 shall collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The ~~Cal EMA~~ *Office of Emergency Services* shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in

conjunction with practitioners and experts in the field of domestic violence prevention. The workshops shall include a curriculum component on lesbian, gay, bisexual, and transgender specific domestic abuse.

(e) The ~~Cal EMA~~ *Office of Emergency Services* shall develop and disseminate throughout the state information and materials concerning domestic violence. The ~~Cal EMA~~ *Office of Emergency Services* shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The ~~Cal EMA~~ *Office of Emergency Services* may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the ~~Cal EMA~~ *Office of Emergency Services* as follows:

(1) The ~~Cal EMA~~ *Office of Emergency Services* shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the request for proposal process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the request for application process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding

and, to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding and, to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) A DVSSP funded through this program in the previous grant cycle, including a DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by the ~~Cal EMA~~ *Office of Emergency Services* pursuant to paragraph (1).

(6) The ~~Cal EMA~~ *Office of Emergency Services* shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the ~~Cal EMA~~ *Office of Emergency Services* shall provide a written report to the DVSSP summarizing the performance of the DVSSP, deficiencies noted, corrective action needed, and a deadline for corrective action to be completed. The ~~Cal EMA~~ *Office of Emergency Services* shall also develop a corrective action plan for

verifying the completion of corrective action required. The ~~Cal EMA~~ *Office of Emergency Services* shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the ~~Cal EMA~~ *Office of Emergency Services* is aware of criminal violations relative to the administration of grant funding.

(8) If an agency receives funding from both the Comprehensive Statewide Domestic Violence Program in the ~~California Emergency Management Agency~~ *Office of Emergency Services* and the Maternal, Child, and Adolescent Health Division of the State Department of Public Health during any grant cycle, the Comprehensive Statewide Domestic Violence Program and the Maternal, Child, and Adolescent Health Division shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(9) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the ~~Cal EMA~~ *Office of Emergency Services* shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies exist that, in the judgment of the ~~Cal EMA~~ *Office of Emergency Services*, cannot be corrected, the ~~Cal EMA~~ *Office of Emergency Services* shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the ~~Cal EMA~~ *Office of Emergency Services* may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce further funding.

(10) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, an appeal of the

decision to deny or reduce funding shall be made in accordance with the appeal process established by the ~~Cal EMA~~ *Office of Emergency Services*. The appeal process shall allow a DVSSP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(11) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the ~~Cal EMA~~ *Office of Emergency Services* may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the ~~Cal EMA~~ *Office of Emergency Services* shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(12) Notwithstanding any other provision of this section, ~~Cal EMA~~ *Office of Emergency Services* may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(13) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(14) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of “domestic violence counselor” as specified in subdivision (a) of Section 1037.1 of the Evidence

Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(15) The following definitions shall apply for purposes of this subdivision:

(A) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, including physical, sexual, and psychological abuse against the partner, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that person.

(B) "Domestic violence shelter service provider" or "DVSSP" means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The ~~Cal EMA~~ *Office of Emergency Services* may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The ~~Cal EMA~~ *Office of Emergency Services* shall not utilize more than 10 percent of funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 489. Section 13823.16 of the Penal Code is amended to read:

13823.16. (a) The Comprehensive Statewide Domestic Violence Program established pursuant to Section 13823.15 shall be collaboratively administered by the ~~California Emergency Management Agency (Cal EMA)~~ *Office of Emergency Services* and an advisory council. The membership of the ~~(Cal EMA)~~ *Office of Emergency Services* Domestic Violence Advisory Council shall consist of experts in the provision of either direct or intervention services to victims of domestic violence and their children, within the scope and intention of the Comprehensive Statewide Domestic Violence Assistance Program.

(b) The membership of the council shall consist of domestic violence victims' advocates, battered women service providers, at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community in connection with domestic violence, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence. At least one-half of the council membership shall consist of domestic violence victims' advocates or battered women service providers. It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state, including people with disabilities. The council shall be composed of no more than 13 voting members and two nonvoting ex officio members who shall be appointed, as follows:

(1) Seven voting members shall be appointed by the Governor, including at least one person recommended by the federally recognized state domestic violence coalition.

(2) Three voting members shall be appointed by the Speaker of the Assembly.

(3) Three voting members shall be appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with the council and participate in its activities to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

(c) The ~~Cal EMA~~ *Office of Emergency Services* shall collaborate closely with the council in developing funding priorities, framing the request for proposals, and soliciting proposals.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 490. Section 13823.17 of the Penal Code is amended to read:

13823.17. (a) The Legislature finds the problem of domestic violence in the gay, lesbian, bisexual, and transgender community to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services for this population are underfunded and that members of this population are unserved

or underserved in the state. Therefore, it is the intent of the Legislature that a goal of the ~~California Emergency Management Agency (Cal EMA)~~ *Office of Emergency Services* shall be to increase access to domestic violence education, prevention, and services specifically for the gay, lesbian, bisexual, and transgender community.

(b) The goal of this section is to establish a targeted or directed grant program for the development and support of domestic violence programs and services for the gay, lesbian, bisexual, and transgender community. The ~~Cal EMA~~ *Office of Emergency Services* shall use funds from the Equality in Prevention and Services for Domestic Abuse Fund to award grants annually to qualifying organizations, with at least one in southern California and one in northern California, to fund domestic violence programs and services that are specific to the lesbian, gay, bisexual, and transgender community, including, but not limited to, any of the following:

(1) Counseling.

(2) Legal assistance with temporary restraining orders, devices, and custody disputes.

(3) Court and social service advocacy.

(4) Batterers intervention.

(5) Educational workshops and publications.

(6) Community resource and referral.

(7) Emergency housing.

(8) Hotline or warmline.

(9) Household establishment assistance.

(c) Each grant shall be awarded for a three-year term, as funds are available, for the purposes of this section.

(d) In order to be eligible to receive funds under this section, qualified organizations shall provide matching funds of at least 10 percent of the funds to be received under the section unless this requirement is waived by the ~~Secretary of Cal EMA~~ *Director of Emergency Services*, at his or her discretion.

(e) As a condition of receiving funding pursuant to this section, grant recipients shall ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor," as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall

be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(f) In order to qualify for a grant award under this section, the recipient shall be a California nonprofit organization with a demonstrated history of working in the area of domestic violence intervention, education, and prevention and serving the lesbian, gay, bisexual, and transgender community.

(g) The funding process for distributing grant awards to qualifying organizations shall be administered by the ~~Cal EMA~~ *Office of Emergency Services* as follows:

(1) Grant funds shall be awarded to qualifying organizations as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes and to the extent possible, the response to the RFP shall not exceed 15 narrative pages, excluding attachments.

(2) The following criteria shall be used to evaluate grant proposals:

(A) Whether the proposed program or services would further the purpose of promoting healthy, nonviolent relationships in the lesbian, gay, bisexual, and transgender community.

(B) Whether the proposed program or services would reach a significant number of people in, and have the support of, the lesbian, gay, bisexual, and transgender community.

(C) Whether the proposed program or services are grounded in a firm understanding of lesbian, gay, bisexual, and transgender domestic violence and represent an innovative approach to addressing the issue.

(D) Whether the proposed program or services would reach unique and underserved sectors of the lesbian, gay, bisexual, and transgender community, such as youth, people of color, immigrants, and transgender persons.

(3) Grant funds shall not be used to support any of the following:

(A) Scholarships.

(B) Awards to individuals.

(C) Out-of-state travel.

(D) Projects that are substantially completed before the anticipated date of the grant award.

(E) Fundraising activities.

(h) Grant recipients may seek, receive, and make use of any funds that may be available from all public and private sources to augment any funds received pursuant to this section.

(i) The ~~Cal EMA~~ *Office of Emergency Services* may adopt rules as necessary to implement the grant program created under this section.

(j) The ~~Cal EMA~~ *Office of Emergency Services* may hire the support staff and utilize all resources necessary to carry out the purposes of this section.

(k) The ~~Cal EMA~~ *Office of Emergency Services* shall consult with the State Department of Public Health to consider the consolidation of their respective domestic violence programs and report conclusions to the Legislature no later than June 30, 2011.

(*l*) For purposes of this section, "domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, including physical, sexual, and psychological abuse against the person, and is a part of a pattern of assaultive, coercive, and controlling behavior directed at achieving compliance from or control over that person.

SEC. 491. Section 13825 of the Penal Code is amended to read:

13825. The State Graffiti Clearinghouse is hereby created in the ~~agency~~ *Office of Emergency Services*. The State Graffiti Clearinghouse shall do all of the following, subject to federal funding:

(a) Assess and estimate the present costs to state and local agencies for graffiti abatement.

(b) Award grants to state and local agencies that have demonstrated implementation of effective graffiti reduction and abatement programs.

(c) Receive and disburse funds to effectuate the purposes of the clearinghouse.

SEC. 492. Section 13826.62 of the Penal Code is amended to read:

13826.62. (a) There is hereby established in the ~~agency~~ *Office of Emergency Services* the Urban Corps Program. The Urban Corps Program is established as an optional activity under Section 13826.6. Community-based organizations receiving grants to participate in the Urban Corps Program may implement the following activities:

(1) Identification of publicly and privately administered programs in the county dealing with the suppression or prevention of criminal gang activities, or both.

(2) Maintenance of a listing of programs within the county identified as dealing with the suppression or prevention of criminal gang activities, or both.

(3) Surveying gang suppression and prevention organizations for the types of services and activities each is engaged in, and identifying needs among these organizations for resources to provide services and fulfill their activities.

(4) Recruitment of volunteers, identification of their skills, abilities, and interests, and matching volunteers with the resource needs of gang prevention and suppression organizations.

(5) Establishment of an urban respite program for the purpose of preventing self-destructive activities and diverting (A) identified youth gang members, and (B) youths who are at risk of becoming gang members, for the purposes of reducing or eliminating incentives for those youths to participate in gang-related crime activities.

(b) The Urban Corps Program shall operate within the ~~agency~~ *Office of Emergency Services* for two years following the establishment of a contract with a community-based organization to administer the program.

(c) This section shall be implemented to the extent that funds are available to the ~~agency~~ *Office of Emergency Services* for this purpose.

SEC. 493. Section 13830 of the Penal Code is amended to read:

13830. There is hereby created in state government a Judicial Criminal Justice Planning Committee of seven members. The Judicial Council shall appoint the members of the committee who shall hold office at its pleasure. In this respect the Legislature finds as follows:

(a) The California court system has a constitutionally established independence under the judicial and separation of power clauses of the State Constitution.

(b) The California court system has a statewide structure created under the Constitution, state statutes, and state court rules, and the Judicial Council of California is the constitutionally established

state agency having responsibility for the operation of that structure.

(c) The California court system will be directly affected by the criminal justice planning that will be done under this title and by the federal grants that will be made to implement that planning.

(d) For effective planning and implementation of court projects it is essential that the ~~agency~~ *Office of Emergency Services* have the advice and assistance of a state judicial system planning committee.

SEC. 494. Section 13833 of the Penal Code is amended to read:

13833. The expenses necessarily incurred by the members of the Judicial Criminal Justice Planning Committee in the performance of their duties under this title shall be paid by the Judicial Council, but it shall be reimbursed by the ~~agency~~ *Office of Emergency Services* to the extent that federal funds can be made available for that purpose. Staff support for the committee's activities shall be provided by the Judicial Council, but the cost of that staff support shall be reimbursed by the ~~agency~~ *Office of Emergency Services* to the extent that federal funds can be made available for that purpose.

SEC. 495. Section 13835.2 of the Penal Code is amended to read:

13835.2. (a) Funds appropriated from the Victim-Witness Assistance Fund shall be made available through the ~~agency~~ *Office of Emergency Services* to any public or private nonprofit agency for the assistance of victims and witnesses that meets all of the following requirements:

(1) It provides comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs that do not restrict services to victims and witnesses of a particular type of crime, and do not restrict services to victims of crime in which there is a suspect in the case.

(2) It is recognized by the board of supervisors as the major provider of comprehensive services to victims and witnesses in the county.

(3) It is selected by the board of supervisors as the agency to receive funds pursuant to this article.

(4) It assists victims of crime in the preparation, verification, and presentation of their claims to the California Victim Compensation and Government Claims Board for indemnification pursuant to Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) It cooperates with the California Victim Compensation and Government Claims Board in verifying the data required by Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(b) The ~~agency~~ *Office of Emergency Services* shall consider the following factors, together with any other circumstances it deems appropriate, in awarding funds to public or private nonprofit agencies designated as victim and witness assistance centers:

(1) The capability of the agency to provide comprehensive services as defined in this article.

(2) The stated goals and objectives of the center.

(3) The number of people to be served and the needs of the community.

(4) Evidence of community support.

(5) The organizational structure of the agency that will operate the center.

(6) The capability of the agency to provide confidentiality of records.

SEC. 496. Section 13835.6 of the Penal Code is amended to read:

13835.6. (a) The ~~agency~~ *Office of Emergency Services*, in cooperation with representatives from local victim and witness assistance centers, shall develop standards defining the activities and services enumerated in this article.

(b) The ~~agency~~ *Office of Emergency Services*, in cooperation with representatives from local victim and witness assistance centers, shall develop a method of evaluating the activities and performance of centers established pursuant to this article.

SEC. 497. Section 13835.7 of the Penal Code is amended to read:

13835.7. There is in the State Treasury the Victim-Witness Assistance Fund. Funds appropriated thereto shall be dispensed to the ~~agency~~ *Office of Emergency Services* exclusively for the purposes specified in this article and for the support of the centers specified in Section 13837.

SEC. 498. Section 13835.10 of the Penal Code is amended to read:

13835.10. (a) The Legislature finds and declares all of the following:

(1) That the provision of quality services for victims of crime is of high priority.

(2) That existing victim service programs do not have sufficient financial resources to consistently recruit and employ fully trained personnel.

(3) That there is no consistency in the training provided to the various agencies serving victims.

(4) That comprehensive training for victim service agencies is geographically limited or unavailable.

(5) That there is currently no statewide comprehensive training system in place for the state to ensure that all service providers receive adequate training to provide quality services to victims of crime.

(6) It is the intention of the Legislature to establish a statewide training program within the ~~agency~~ *Office of Emergency Services* to provide comprehensive standardized training to victim service providers.

(b) The ~~agency~~ *Office of Emergency Services* shall establish a statewide victim-assistance training program, the purpose of which is to develop minimum training and selection standards, certify training courses, and provide funding to enable local victim service providers to acquire the required training.

(c) (1) For the purpose of raising the level of competence of local victim service providers, the ~~office~~ *Office of Emergency Services* shall adopt guidelines establishing minimum standards of training for employees of victim-witness and sexual assault programs funded by the office to provide services to victims of crime. The ~~agency~~ *Office of Emergency Services* shall establish an advisory committee composed of recognized statewide victim service organizations, representatives of local victim service programs, and others selected at the discretion of the executive director to consult on the research and development of the training, selection, and equivalency standards.

(2) Any local unit of government, community-based organization, or any other public or private nonprofit entity funded by the ~~agency or agencies~~ *Office of Emergency Services* as a

victim-witness or sexual assault program to provide services to victims of crime shall adhere to the training and selection standards established by the ~~agency or agencies~~ *Office of Emergency Services*. The standards for sexual assault victim service programs developed by the advisory committee established pursuant to Section 13836 shall be the standards for purposes of this section. With the exception of the sexual assault standards, the ~~agency~~ *Office of Emergency Services* shall conduct or contract with an appropriate firm or entity for research on validated standards pursuant to this section in consultation with the advisory committee established pursuant to paragraph (1). The ~~agency~~ *Office of Emergency Services* may defer the adoption of the selection standards until the necessary research is completed. Until the standards are adopted, affected victim service programs may receive state funding from the ~~agency~~ *Office of Emergency Services* upon certification of their willingness to adhere to the training standards adopted by the ~~agency~~ *Office of Emergency Services*.

(3) Minimum training and selection standards may include, but shall not be limited to, basic entry, continuation, supervisory, management, specialized curricula, and confidentiality.

(4) Training and selection standards shall apply to all victim service and management personnel of the victim-witness and sexual assault agencies funded by the ~~agency~~ *Office of Emergency Services* to provide services to victims of crime. Exemptions from this requirement may be made by the ~~agency~~ *Office of Emergency Services*. A victim service agency which, despite good faith efforts, is unable to meet the standards established pursuant to this section, may apply to the ~~agency~~ *Office of Emergency Services* for an exemption. For the purpose of exemptions, the ~~agency~~ *Office of Emergency Services* may establish procedures that allow for partial adherence. The ~~agency~~ *Office of Emergency Services* may develop equivalency standards which recognize professional experience, education, training, or a combination of the above, for personnel hired before July 1, 1987.

(5) Nothing in this section shall prohibit a victim service agency, funded by the ~~agency~~ *Office of Emergency Services* to provide services to victims of crime, from establishing training and selection standards which exceed the minimum standards established by the ~~agency~~ *Office of Emergency Services* pursuant to this section.

(d) For purposes of implementing this section, the ~~agency~~ *Office of Emergency Services* has all of the following powers:

(1) To approve or certify, or both, training courses selected by the agency.

(2) To make those inquiries which may be necessary to determine whether every local unit of government, community-based organization, or any other public or private entity receiving state aid from the ~~agency~~ *Office of Emergency Services* as a victim-witness or sexual assault program for the provision of services to victims of crime, is adhering to the standards for training and selection established pursuant to this section.

(3) To adopt those guidelines which are necessary to carry out the purposes of this section.

(4) To develop or present, or both, training courses for victim service providers, or to contract with coalitions, councils, or other designated entities, to develop or present, or both, those training courses.

(5) To perform other activities and studies necessary to carry out the intent of this section.

(e) (1) The ~~agency~~ *Office of Emergency Services* may utilize any funds that may become available from the Victim-Witness Assistance Fund to fund the cost of training staff of victim service agencies which are funded by the ~~agency~~ *Office of Emergency Services* from the fund. The ~~agency~~ *Office of Emergency Services* may utilize federal or other state funds that may become available to fund the cost of training staff of victim service agencies which are not eligible for funding from the Victim-Witness Assistance Fund.

(2) Peace officer personnel whose jurisdictions are eligible for training subvention pursuant to Chapter 1 (commencing with Section 13500) of Title 4 of this part and correctional or probation personnel whose jurisdictions are eligible for state aid pursuant to Article 2 (commencing with Section 6035) of Chapter 5 of Title 7 of Part 3 are not eligible to receive training reimbursements under this section unless the person receiving the training is assigned to provide victim services in accordance with a grant award agreement with the ~~agency~~ *Office of Emergency Services* and is attending training to meet the established standards.

SEC. 499. Section 13836 of the Penal Code is amended to read:

13836. The ~~agency~~ *Office of Emergency Services* shall establish an advisory committee which shall develop a course of training for district attorneys in the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases and shall approve grants awarded pursuant to Section 13837. The courses shall include training in the unique emotional trauma experienced by victims of these crimes.

It is the intent of the Legislature in the enactment of this chapter to encourage the establishment of sex crime prosecution units, which shall include, but not be limited to, child sexual exploitation and child sexual abuse cases, in district attorneys' offices throughout the state.

SEC. 500. Section 13836.1 of the Penal Code is amended to read:

13836.1. The committee shall consist of 11 members. Five shall be appointed by the ~~secretary~~ *Director of Emergency Services*, and shall include three district attorneys or assistant or deputy district attorneys, one representative of a city police department or a sheriff or a representative of a sheriff's department, and one public defender or assistant or deputy public defender of a county. Six shall be public members appointed by the Commission on the Status of Women and Girls, and shall include one representative of a rape crisis center, and one medical professional experienced in dealing with sexual assault trauma victims. The committee members shall represent the points of view of diverse ethnic and language groups.

Members of the committee shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties. Staff support for the committee shall be provided by the ~~agency~~ *Office of Emergency Services*.

SEC. 501. Section 13843 of the Penal Code is amended to read:

13843. (a) Allocation and award of funds made available under this chapter shall be made upon application to the ~~agency~~ *Office of Emergency Services*. All applications shall be reviewed and evaluated by the ~~agency~~ *Office of Emergency Services*.

(b) The ~~secretary~~ *Director of Emergency Services* may allocate and award funds to communities developing and providing ongoing citizen involvement and crime resistance programs in compliance

with the established policies and criteria of the agency. Applications receiving funding under this section shall be selected from among those deemed appropriate for funding according to the criteria, policy, and procedures established by the ~~agency~~ *Office of Emergency Services*.

(c) With the exception of funds awarded for programs authorized under paragraph (2) of subdivision (b) of Section 13844, no single award of funds under this chapter shall exceed a maximum of two hundred fifty thousand dollars ($250,000) for a 12-month grant period.

(d) Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Community Crime Resistance Program, be made available to support crime resistance programs.

(e) Funds disbursed under this chapter shall be supplemented with local funds constituting, at a minimum, 10 percent of the total crime resistance program budget during the initial year and 20 percent in subsequent periods of funding.

(f) Annually, up to a maximum of 10 percent of the total funds appropriated to the Community Crime Resistance Program may be used by the ~~agency~~ *Office of Emergency Services* to support statewide technical assistance, training, and public awareness activities relating to crime prevention.

(g) Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 14780 of the Government Code.

(h) Guidelines shall set forth the terms and conditions upon which the ~~agency~~ *Office of Emergency Services* is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders, or standards of general application.

SEC. 502. Section 13844 of the Penal Code is amended to read:

13844. (a) Use of funds granted under the California Community Crime Resistance Program are restricted to the following activities:

(1) Further the goal of a statewide crime prevention network by supporting the initiation or expansion of local crime prevention efforts.

(2) Provide information and encourage the use of new and innovative refinements to the traditional crime prevention model in localities that currently maintain a well-established crime prevention program.

(3) Support the development of a coordinated service network, including information exchange and case referral between such programs as local victim-witness assistance programs, sexual assault programs, gang violence reduction programs, drug suppression programs, elderly care custodians, state and local elderly service programs, or any other established and recognizable local programs devoted to the lessening of crime and the promotion of the community's well-being.

(b) With respect to the initiation or expansion of local crime prevention efforts, projects supported under the California Community Crime Resistance Program shall do either of the following:

(1) Carry out as many of the following activities as deemed, in the judgment of the ~~agency~~ *Office of Emergency Services*, to be consistent with available resources:

(A) Crime prevention programs using tailored outreach techniques in order to provide effective and consistent services for the elderly in the following areas:

(i) Crime prevention information to elderly citizens regarding personal safety, fraud, theft, grand theft, burglary, and elderly abuse.

(ii) Services designed to respond to the specific and diverse crime prevention needs of elderly residential communities.

(iii) Specific services coordinated to assist in the installation of security devices or provision of escort services and victim assistance.

(B) Programs to provide training, information, and prevention literature to peace officers, elderly care custodians, health practitioners, and social service providers regarding physical abuse and neglect within residential health care facilities for the elderly.

(C) Programs to promote neighborhood involvement such as, but not limited to, block clubs and other community or resident-sponsored anticrime programs.

(D) Personal safety programs.

(E) Domestic violence prevention programs.

(F) Crime prevention programs specifically geared to youth in schools and school district personnel.

(G) Programs which make available to residents and businesses information on locking devices, building security, and related crime resistance approaches.

(H) In cooperation with the Commission on Peace Officer Standards and Training, support for the training of peace officers in crime prevention and its effects on the relationship between citizens and law enforcement.

(I) Efforts to address the crime prevention needs of communities with high proportions of teenagers and young adults, low-income families, and non-English-speaking residents, including juvenile delinquency diversion, social service referrals, and making available crime resistance literature in appropriate languages other than English.

(2) Implement a community policing program in targeted neighborhoods that are drug infested. The goal of this program shall be to empower the people against illegal drug activity. A program funded pursuant to this chapter shall be able to target one or more neighborhoods within the grant period. In order to be eligible for funding, the program shall have the commitment of the community, local law enforcement, school districts, and community service groups; and shall be supported by either the city council or the board of supervisors, whichever is applicable.

(c) With respect to the support of new and innovative techniques, communities taking part in the California Crime Resistance Program shall carry out those activities, as determined by the ~~agency~~ *Office of Emergency Services*, that conform to local needs and are consistent with available expertise and resources. These techniques may include, but are not limited to, community policing programs or activities involving the following:

(1) Programs to reinforce the security of "latchkey" children, including neighborhood monitoring, special contact telephone numbers, emergency procedure training for the children, daily telephone checks for the children's well-being, and assistance in developing safe alternatives to unsupervised conditions for children.

(2) Programs dedicated to educating parents in procedures designed to do all of the following:

(A) Minimize or prevent the abduction of children.

(B) Assist children in understanding the risk of child abduction.

(C) Maximize the recovery of abducted children.

(3) Programs devoted to developing automated systems for monitoring and tracking crimes within organized neighborhoods.

(4) Programs devoted to developing timely "feedback mechanisms" whose goals would be to alert residents to new crime problems and to reinforce household participation in neighborhood security organizations.

(5) Programs devoted to creating and packaging special crime prevention approaches tailored to the special needs and characteristics of California's cultural and ethnic minorities.

(6) Research into the effectiveness of local crime prevention efforts including the relationships between crime prevention activities, participants' economic and demographic characteristics, project costs, local or regional crime rate, and law enforcement planning and staff deployment.

(7) Programs devoted to crime and delinquency prevention through the establishment of partnership initiatives utilizing elderly and juvenile volunteers.

(d) All approved programs shall utilize volunteers to assist in implementing and conducting community crime resistance programs. Programs providing elderly crime prevention programs shall recruit senior citizens to assist in providing services.

(e) Programs funded pursuant to this chapter shall demonstrate a commitment to support citizen involvement with local funds after the program has been developed and implemented with state moneys.

SEC. 503. Section 13846 of the Penal Code is amended to read:

13846. (a) Evaluation and monitoring of all grants made under this section shall be the responsibility of the ~~agency~~ *office*. The ~~agency~~ *office* shall issue standard reporting forms for reporting the level of activities and number of crimes reported in participating communities.

(b) Information on successful programs shall be made available and relayed to other California communities through the technical assistance procedures of the ~~agency~~ *office*.

SEC. 504. Section 13847 of the Penal Code is amended to read:

13847. (a) There is hereby established in the ~~agency~~ *Office of Emergency Services* a program of financial and technical assistance for local law enforcement, called the Rural Indian Crime Prevention Program. The program shall target the relationship between law enforcement and Native American communities to encourage and to strengthen cooperative efforts and to implement crime suppression and prevention programs.

(b) The ~~secretary~~ *Director of Emergency Services* may allocate and award funds to those local units of government, or combinations thereof, in which a special program is established in law enforcement agencies that meets the criteria set forth in Sections 13847.1 and 13847.2.

(c) The allocation and award of funds shall be made upon application executed by the chief law enforcement officer of the applicant unit of government and approved by the legislative body. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Rural Indian Crime Prevention Program, be made available to support the suppression and prevention of crime on reservations and rancherias.

(d) The ~~secretary~~ *Director of Emergency Services* shall prepare and issue administrative guidelines and procedures for the Rural Indian Crime Prevention Program consistent with this chapter.

(e) The guidelines shall set forth the terms and conditions upon which the ~~agency~~ *Office of Emergency Services* is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders, or standards of general application.

SEC. 505. Section 13847.2 of the Penal Code is amended to read:

13847.2. (a) The Rural Indian and Law Enforcement Local Advisory Committee shall be composed of a chief executive of a law enforcement agency, two tribal council members, two tribal elders, one Indian law enforcement officer, one Indian community officer, one representative of the Bureau of Indian Affairs, and any additional members that may prove to be crucial to the committee. All members of the advisory committee shall be designated by the ~~secretary~~ *Director of Emergency Services*, who shall provide staff services to the advisory committee.

(b) The ~~secretary~~ *Director of Emergency Services*, in consultation with the advisory committee, shall develop specific

guidelines, and administrative procedures, for the selection of projects to be funded by the Rural Indian Crime Prevention Program which guidelines shall include the selection criteria described in this chapter.

(c) Administration of the overall program and the evaluation and monitoring of all grants made under this chapter shall be performed by the ~~agency~~ *Office of Emergency Services*, provided that funds expended for these functions shall not exceed 5 percent of the total annual amount made available for the purpose of this chapter.

SEC. 506. Section 13851 of the Penal Code is amended to read:

13851. (a) There is hereby established in the ~~agency~~ *Office of Emergency Services* a program of financial, training, and technical assistance for local law enforcement, called the California Career Criminal Apprehension Program. All funds made available to the ~~agency~~ *Office of Emergency Services* for the purposes of this chapter shall be administered and disbursed by the ~~secretary~~ *Director of Emergency Services*.

(b) The ~~secretary~~ *Director of Emergency Services* is authorized to allocate and award funds to those local units of government or combinations thereof, in which a special program is established in law enforcement agencies that meets the criteria set forth in Sections 13852 and 13853.

(c) The allocation and award of funds shall be made upon application executed by the chief law enforcement officer of the applicant unit of government and approved by the legislative body. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Apprehension Program, be made available to support the apprehension of multiple or repeat felony criminal offenders.

(d) The ~~secretary~~ *Director of Emergency Services* shall prepare and issue administrative guidelines and procedures for the California Career Criminal Apprehension Program consistent with this chapter.

(e) These guidelines shall set forth the terms and conditions upon which the ~~agency~~ *Office of Emergency Services* is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders, or standards of general application.

SEC. 507. Section 13854 of the Penal Code is amended to read:

13854. (a) The ~~secretary~~ *Director of Emergency Services* shall develop specific guidelines, and administrative procedures, for the selection of the California Career Criminal Apprehension Program.

(b) Administration of the overall program and the evaluation and monitoring of all grants made under this chapter shall be performed by the ~~agency~~ *Office of Emergency Services*, provided that funds expended for those functions shall not exceed 7.5 percent of the total annual amount made available for the purpose of this chapter.

(c) Local assistance grants made pursuant to this chapter shall not be subject to review pursuant to Section 10290 of the Public Contract Code.

SEC. 508. Section 13861 of the Penal Code is amended to read:

13861. There is hereby created in the ~~agency~~ *Office of Emergency Services* the Suppression of Drug Abuse in Schools Program. All funds made available to the ~~agency~~ *Office of Emergency Services* for the purposes of this chapter shall be administered and disbursed by the ~~secretary~~ *Director of Emergency Services* in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863.

(a) The ~~secretary~~ *Director of Emergency Services*, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools jointly working to develop drug abuse prevention and drug trafficking suppression programs in substantial compliance with the policies and criteria set forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression of Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the

application shall be submitted to the ~~agency~~ *Office of Emergency Services*. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among schoolage children and to curtail drug trafficking in and around school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the ~~secretary~~ *Director of Emergency Services*, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863, shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of these guidelines and procedures, a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

SEC. 509. Section 13864 of the Penal Code is amended to read:

13864. There is hereby created in the ~~agency~~ *Office of Emergency Services* the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to the ~~agency~~ *Office of Emergency Services* in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the ~~secretary~~ *Director of Emergency Services*. All applications for that funding shall be reviewed and evaluated by the ~~agency~~ *Office of Emergency Services*, in consultation with the

State Department of Alcohol and Drug Programs and the State Department of Education.

(a) The ~~secretary~~ *Director of Emergency Services* is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the ~~agency~~ *Office of Emergency Services*, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education, containing all of the following components:

(1) A standardized age-appropriate curriculum designed for pupils in grades 4 to 6, inclusive, specifically tailored and sensitive to the socioeconomic and ethnic characteristics of the target pupil population. Although new curricula shall not be required to be developed, existing curricula may be modified and adapted to meet local needs. The elements of the standardized comprehensive alcohol and drug prevention education program curriculum shall be defined and approved by the Governor's Policy Council on Drug and Alcohol Abuse, as established by Executive Order No. D-70-80.

(2) A planning process that includes assessment of the school district's characteristics, resources, and the extent of problems related to juvenile drug abuse, and input from local law enforcement agencies.

(3) A school district governing board policy that provides for a coordinated intervention system that, at a minimum, includes procedures for identification, intervention, and referral of at-risk alcohol- and drug-involved youth, and identifies the roles and responsibilities of law enforcement, school personnel, parents, and pupils.

(4) Early intervention activities that include, but are not limited to, the identification of pupils who are high risk or have chronic

drug abuse problems, assessment, and referral for appropriate services, including ongoing support services.

(5) Parent education programs to initiate and maintain parental involvement, with an emphasis for parents of at-risk pupils.

(6) Staff and in-service training programs, including both indepth training for the core team involved in providing program services and general awareness training for all school faculty and administrative, credentialed, and noncredentialed school personnel.

(7) In-service training programs for local law enforcement officers.

(8) School, law enforcement, and community involvement to ensure coordination of program services. Pursuant to that coordination, the school district or districts and other local agencies are encouraged to use a single community advisory committee or task force for drug, alcohol, and tobacco abuse prevention programs, as an alternative to the creation of a separate group for that purpose under each state or federally funded program.

(c) The application of the county superintendent of schools shall be submitted to the ~~agency~~ *Office of Emergency Services*. Funds made available to the ~~agency~~ *Office of Emergency Services* for allocation under this section are intended to enhance, but shall not supplant, local funds that would, in the absence of the Comprehensive Alcohol and Drug Prevention Education component, be made available to prevent, intervene in, or suppress drug abuse among schoolage children. For districts that are already implementing a comprehensive drug abuse prevention program for pupils in grades 4 to 6, inclusive, the county superintendent shall propose the use of the funds for drug prevention activities in school grades other than 4 to 6, inclusive, compatible with the program components of this section. The expenditure of funds for that alternative purpose shall be approved by the ~~secretary~~ *Director of Emergency Services*.

(1) Unless otherwise authorized by the ~~agency~~ *Office of Emergency Services*, each county superintendent of schools shall be the fiscal agent for any Comprehensive Alcohol and Drug Prevention Education component award, and shall be responsible for ensuring that each school district within that county receives the allocation prescribed by the ~~agency~~ *Office of Emergency Services*. Each county superintendent shall develop a countywide plan that complies with program guidelines and procedures

established by the ~~agency~~ *Office of Emergency Services* pursuant to subdivision (d). A maximum of 5 percent of the county's allocation may be used for administrative costs associated with the project.

(2) Each county superintendent of schools shall establish and chair a local coordinating committee to assist the superintendent in developing and implementing a countywide implementation plan. This committee shall include the county drug administrator, law enforcement executives, school district governing board members and administrators, school faculty, parents, and drug prevention and intervention program executives selected by the superintendent and approved by the county board of supervisors.

(d) The ~~secretary~~ *Director of Emergency Services*, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the ~~agency~~ *Office of Emergency Services* is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(f) Funds awarded under the Comprehensive Alcohol and Drug Prevention Education Program shall not be subject to Section 10318 of the Public Contract Code.

(g) Funds available pursuant to Item 8100-111-001 and Provision 1 of Item 8100-001-001 of the Budget Act of 1989, or the successor provision of the appropriate Budget Act, shall be allocated to implement this section.

(h) The ~~secretary~~ *Director of Emergency Services* shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for drug, alcohol, and tobacco education funding under this section and under other state and federal programs. The ~~agency~~ *Office of Emergency Services*, the State Department of Alcohol and Drug Programs, the State Department of Education, and other state agencies, to the extent possible, shall

develop joint policies and collaborate planning in the administration of drug, alcohol, and tobacco abuse prevention education programs.

SEC. 510. Section 13881 of the Penal Code is amended to read:

13881. (a) There is hereby established in the ~~agency~~ *office* a program of financial and technical assistance for district attorneys' offices, designated the California Major Narcotic Vendors Prosecution Law. All funds appropriated to the ~~agency~~ *office* for the purposes of this chapter shall be administered and disbursed by the ~~secretary~~ *director* in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The ~~secretary~~ *director* is authorized to allocate and award funds to counties in which the California Major Narcotic Vendors Prosecution Law is implemented in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Major Narcotic Vendors Prosecution Law, be made available to support the prosecution of felony drug cases. Funds available under this program shall not be subject to review, as specified in Section 14780 of the Government Code.

(d) The ~~secretary~~ *director* shall prepare and issue written program and administrative guidelines and procedures for the California Major Narcotic Vendors Prosecution Program consistent with this chapter, which shall be submitted to the Chairpersons of the Assembly Committee on Public Safety and the Senate Committee on Criminal Procedure. These guidelines shall permit the selection of a county for the allocation and award of funds only on a finding by the ~~agency~~ *office* that the county is experiencing a proportionately significant increase in major narcotic cases. Further, the guidelines shall provide for the allocation and award of funds to small county applicants, as designated by the ~~secretary~~ *director*. The guidelines shall also provide that any funds received by a county under this chapter shall be used only for the prosecution of cases involving major narcotic dealers. For purposes

of this subdivision, "small county" means a county having a population of 200,000 or less.

SEC. 511. Section 13897.2 of the Penal Code is amended to read:

13897.2. (a) The ~~agency~~ *Office of Emergency Services* shall grant an award to an appropriate private, nonprofit organization, to provide a statewide resource center, as described in Section 13897.1.

(b) The center shall:

(1) Provide callers with information about victims' legal rights to compensation pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code and, where appropriate, provide victims with guidance in exercising these rights.

(2) Provide callers who provide services to victims of crime with legal information regarding the legal rights of victims of crime.

(3) Advise callers about any potential civil causes of action and, where appropriate, provide callers with references to local legal aid and lawyer referral services.

(4) Advise and assist callers in understanding and implementing their rights to participate in sentencing and parole eligibility hearings as provided by statute.

(5) Advise callers about victims' rights in the criminal justice system, assist them in overcoming problems, including the return of property, and inform them of any procedures protecting witnesses.

(6) Refer callers, as appropriate, to local programs, which include victim-witness programs, rape crisis units, domestic violence projects, and child sexual abuse centers.

(7) Refer callers to local resources for information about appropriate public and private benefits and the means of obtaining aid.

(8) Publicize the existence of the toll-free service through the print and electronic media, including public service announcements, brochures, press announcements, various other educational materials, and agreements for the provision of publicity, by private entities.

(9) Compile comprehensive referral lists of local resources that include the following: victims' assistance resources, including

legal and medical services, financial assistance, personal counseling and support services, and victims' support groups.

(10) Produce promotional materials for distribution to law enforcement agencies, state and local agencies, print, radio, and television media outlets, and the general public. These materials shall include placards, video and audio training materials, written handbooks, and brochures for public distribution. Distribution of these materials shall be coordinated with the local victims' service programs.

(11) Research, compile, and maintain a library of legal information concerning crime victims and their rights.

(12) Provide a 20-percent minimum cash match for all funds appropriated pursuant to this chapter which match may include federal and private funds in order to supplement any funds appropriated by the Legislature.

(c) The resource center shall be located so as to assure convenient and regular access between the center and those state agencies most concerned with crime victims. The entity receiving the grant shall be a private, nonprofit organization, independent of law enforcement agencies, and have qualified staff knowledgeable in the legal rights of crime victims and the programs and services available to victims throughout the state. The subgrantee shall have an existing statewide, toll-free information service and have demonstrated substantial capacity and experience serving crime victims in areas required by this act.

(d) The services of the resource center shall not duplicate the victim service activities of the ~~agency~~ *Office of Emergency Services* or those activities of local victim programs funded through the ~~agency~~ *Office of Emergency Services*.

(e) The subgrantee shall be compensated at its federally approved indirect cost rate, if any. For the purposes of this section, "federally approved indirect cost rate" means that rate established by the federal Department of Health and Human Services or other federal agency for the subgrantee. Nothing in this section shall be construed as requiring the ~~agency~~ *Office of Emergency Services* to permit the use of federally approved indirect cost rates for other subgrantees of other grants administered by the ~~office~~ *Office of Emergency Services*.

(f) All information and records retained by the center in the course of providing services under this chapter shall be confidential

and privileged pursuant to Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code and Article 4 (commencing with Section 6060) of Chapter 4 of Division 3 of the Business and Professions Code. Nothing in this subdivision shall prohibit compilation and distribution of statistical data by the center.

SEC. 512. Section 13897.3 of the Penal Code is amended to read:

13897.3. The ~~agency~~ *Office of Emergency Services* shall develop written guidelines for funding and performance standards for monitoring the effectiveness of the resource center program. The program shall be evaluated by a public or private nonprofit entity under a contract with the ~~agency~~ *Office of Emergency Services*.

SEC. 513. Section 13901 of the Penal Code is amended to read:

13901. (a) For the purposes of coordinating local criminal justice activities and planning for the use of state and federal action funds made available through any grant programs, criminal justice and delinquency prevention planning districts shall be established.

(b) On January 1, 1976, all planning district boundaries shall remain as they were immediately prior to that date. Thereafter, the number and boundaries of those planning districts may be altered from time to time pursuant to this section; provided that no county shall be divided into two or more districts, nor shall two or more counties which do not comprise a contiguous area form a single district.

(c) Prior to taking any action to alter the boundaries of any planning district, the council shall adopt a resolution indicating its intention to take the action and, at least 90 days prior to the taking of the action, shall forward a copy of the resolution to all units of government directly affected by the proposed action.

(d) If any county or a majority of the cities directly affected by the proposed action objects thereto, and a copy of the resolution of each board of supervisors or city council stating its objection is delivered to the ~~Secretary of Emergency Management~~ *Director of Emergency Services* within 30 days following the giving of the notice of the proposed action, the ~~secretary~~ *director* shall conduct a public meeting within the boundaries of the district as they are proposed to be determined. Notice of the time and place of the

meeting shall be given to the public and to all units of local government directly affected by the proposed action, and reasonable opportunity shall be given to members of the public and representatives of those units to present their views on the proposed action.

SEC. 514. Section 14111 of the Penal Code is amended to read:

14111. The Legislature further finds that:

(a) It is in the public interest to translate the findings of the California Commission on Crime Control and Violence Prevention into community-empowering, community-activated violence prevention efforts that would educate, inspire, and inform the citizens of California about, coordinate existing programs relating to, and provide direct services addressing the root causes of, violence in California.

(b) The recommendations in the report of the commission can serve as both the foundation and guidelines for short-, intermediate-, and long-term programs to address and alleviate violence in California.

(c) It is in the public interest to facilitate the highest degree of coordination between, cooperation among, and utilization of public, nonprofit, and private sector resources, programs, agencies, organizations, and institutions toward maximally successful violence prevention and crime control efforts.

(d) Prevention is a sound fiscal, as well as social, policy objective. Crime and violence prevention programs can and should yield substantially beneficial results with regard to the exorbitant costs of both violence and crime to the public and private sectors.

(e) The ~~California Emergency Management Agency~~ *Office of Emergency Services* is the appropriate state agency to contract for programs addressing the root causes of violence.

SEC. 515. Section 14112 of the Penal Code is amended to read:

14112. The Legislature therefore intends:

(a) To develop community violence prevention and conflict resolution programs, in the state, based upon the recommendations of the California Commission on Crime Control and Violence Prevention, that would present a balanced, comprehensive educational, intellectual, and experiential approach toward eradicating violence in our society.

(b) That these programs shall be regulated, and funded pursuant to contracts with the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

SEC. 516. Section 14113 of the Penal Code is amended to read:

14113. Unless otherwise required by context, as used in this title:

(a) "Agency" *or "office"* means the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(b) "Secretary" *or "director"* means the ~~Secretary of Emergency Management~~ *Director of Emergency Services*.

SEC. 517. Section 14117 of the Penal Code is amended to read:

14117. (a) Each program shall have a governing board or an interagency coordinating team, or both, of at least nine members representing a cross section of existing and recipient, community-based, public and private persons, programs, agencies, organizations, and institutions. Each team shall do all of the following:

(1) As closely as possible represent the socioeconomic, ethnic, linguistic, and cultural makeup of the community and shall evidence an interest in and commitment to the categorical areas of violence prevention and conflict resolution.

(2) Be responsible for the implementation, evaluation, and operation of the program and all its constituent elements, including those specific direct services as may be provided pursuant to Section 14115.

(3) Be accountable for the distribution of all funds.

(4) Designate and appoint a responsible administrative authority acceptable to the ~~agency~~ *Office of Emergency Services* prior to the receipt of a grant.

(5) Submit an annual report to the ~~agency~~ *Office of Emergency Services*, which shall include information on all of the following:

(A) The number of learning events.

(B) The number of persons trained.

(C) An overview of the changing level of information regarding root causes of violence.

(D) An overview of the changing level of attitude regarding root causes of violence.

(E) The changing level of behavior regarding root causes of violence.

(F) The degree to which the program has been successful in satisfying the requirements set forth in subdivisions (e) and (f) of Section 14114.

(G) Other measures of program efficacy as specified by the ~~agency~~ *Office of Emergency Services*.

(b) Coordinating teams established under this section may adopt local policies, procedures, and bylaws consistent with this title.

SEC. 518. Section 14118 of the Penal Code is amended to read:

14118. (a) The ~~agency~~ *Office of Emergency Services* shall prepare and issue written program, fiscal, and administrative guidelines for the contracted programs that are consistent with this title, including guidelines for identifying recipient programs, agencies, organizations, and institutions, and organizing the coordinating teams. The ~~agency~~ *Office of Emergency Services* shall then issue a request for proposals. The responses to the request for proposals shall be rated according to the priorities set forth in subdivision (b) and additional criteria established by the guidelines. The highest rated responses shall be selected. The ~~agency~~ *Office of Emergency Services* shall do all of the following:

(1) Subject the proposed program and administrative guidelines to a 30-day period of broad public evaluation with public hearings commencing in May 1985, prior to adoption, including specific solicitation of input from culturally, geographically, socioeconomically, educationally, and ethnically diverse persons, programs, agencies, organizations, and institutions.

(2) Provide adequate public notice of the public evaluation around the state in major metropolitan and rural newspapers and related media outlets, and to local public, private, and nonprofit human service executives and advisory boards, and other appropriate persons and organizations.

(3) Establish a mechanism for obtaining, evaluating, and incorporating when appropriate and feasible, public input regarding the written program and administrative guidelines prior to adoption.

(b) Applicants for contracts under this title may be existing community-based public and nonprofit programs, agencies, organizations, and institutions, newly developed nonprofit

corporations, or joint proposals from combinations of either or both of the above.

SEC. 519. Section 14119 of the Penal Code is amended to read:

14119. (a) The ~~agency~~ *Office of Emergency Services* shall promote, organize, and conduct a series of one-day crime and violence prevention training workshops around the state. The ~~agency~~ *Office of Emergency Services* shall seek participation in the workshops from ethnically, linguistically, culturally, educationally, and economically diverse persons, agencies, organizations, and institutions.

(b) The training workshops shall have all of the following goals:

(1) To identify phenomena which are thought to be root causes of crime and violence.

(2) To identify local manifestations of those root causes.

(3) To examine the findings and recommendations of the California Commission on Crime Control and Violence Prevention.

(4) To focus on team building and interagency cooperation and coordination toward addressing the local problems of crime and violence.

(5) To examine the merits and necessity of a local crime and violence prevention effort.

(c) There shall be at least three workshops.

SEC. 520. Section 14120 of the Penal Code is amended to read:

14120. (a) Programs shall be funded, depending upon the availability of funds, for a period of two years.

(b) The ~~agency~~ *Office of Emergency Services* shall provide 50 percent of the program costs, to a maximum amount of fifty thousand dollars ($50,000) per program per year. The recipient shall provide the remaining 50 percent with other resources which may include in-kind contributions and services. The administrative expenses for the pilot programs funded under Section 14120 shall not exceed 10 percent.

(c) Programs should be seeking private sector moneys and developing ways to become self-sufficient upon completion of pilot program funding.

(d) The recipient programs shall be responsible for a yearend independent audit.

(e) The ~~agency~~ *Office of Emergency Services* shall do an interim evaluation of the programs, commencing in July 1986, and shall report to the Legislature and the people with the results of the evaluation prior to October 31, 1986. The evaluation shall include, but not be limited to, an assessment and inventory of all of the following:

(1) The number of learning events.

(2) The number of persons trained.

(3) The changing level of information regarding root causes of violence.

(4) The changing level of attitude regarding root causes of violence.

(5) The changing level of behavior regarding root causes of violence.

(6) The reduced level of violence in our society.

(7) The degree to which the program has succeeded in reaching and impacting positively upon local ethnic, cultural, and socioeconomic groups in the service area.

A final evaluation shall be made with a report prior to October 31, 1987, which shall also include specific recommendations to the Legislature and the people of this state regarding methods and means by which these violence prevention and crime control programmatic efforts can be enhanced and improved.

SEC. 521. Section 14121 of the Penal Code is amended to read:

14121. The ~~agency~~ *Office of Emergency Services* may hire support staff and utilize resources necessary to carry out the purposes of this title.

SEC. 522. Section 14140 of the Penal Code is amended to read:

14140. (a) Each county is authorized and encouraged to create a county task force on violent crimes against women. The board of supervisors of a county which elects to create a task force under this section shall notify the ~~California Emergency Management Agency~~ *Office of Emergency Services* that the county is establishing, by appointment, a countywide task force. Each county task force shall develop a countywide policy on violent crimes against women.

(b) The ~~California Emergency Management Agency~~ *Office of Emergency Services* may provide technical assistance to, and

collect and disseminate information on, the county task forces established under this section.

SEC. 523. Section 12101 of the Public Contract Code is amended to read:

12101. It is the intent of the Legislature that policies developed by the ~~California~~ *Department of* Technology ~~Agency~~ and procedures developed by the Department of General Services in accordance with Section 12102 provide for the following:

(a) The expeditious and value-effective acquisition of information technology goods and services to satisfy state requirements.

(b) The acquisition of information technology goods and services within a competitive framework.

(c) The delegation of authority by the Department of General Services to each state agency that has demonstrated to the department's satisfaction the ability to conduct value-effective information technology goods and services acquisitions.

(d) The exclusion from state bid processes, at the state's option, of any supplier having failed to meet prior contractual requirements related to information technology goods and services.

(e) The review and resolution of protests submitted by any bidders with respect to any information technology goods and services acquisitions.

SEC. 524. Section 12103 of the Public Contract Code is amended to read:

12103. In addition to the mandatory requirements enumerated in Section 12102, the acquisition policies developed and maintained by the ~~California~~ *Department of* Technology ~~Agency~~ and procedures developed and maintained by the Department of General Services in accordance with this chapter may provide for the following:

(a) Price negotiation with respect to contracts entered into in accordance with this chapter.

(b) System or equipment component performance, or availability standards, including an assessment of the added cost to the state to receive contractual guarantee of a level of performance.

(c) Requirement of a bond or assessment of a cost penalty with respect to a contract or consideration of a contract offered by a supplier whose performance has been determined unsatisfactory

in accordance with established procedures maintained in the State Administrative Manual as required by Section 12102.

SEC. 525. Section 12104 of the Public Contract Code is amended to read:

12104. (a) (1) Commencing on or before January 1, 2007, the State Contracting Manual shall set forth all procedures and methods that shall be used by the department when seeking to obtain bids for the acquisition of information technology.

(2) Revisions to the manual must be publicly announced, including, but not limited to, postings on the department's Internet homepage.

(b) The department, in consultation with the ~~California~~ *Department of* Technology ~~Agency~~, shall develop, implement, and maintain standardized methods for the development of information technology requests for proposals.

(c) All information technology requests for proposals shall be reviewed by the ~~California~~ *Department of* Technology ~~Agency~~ and the Department of General Services prior to release to the public.

SEC. 526. Section 12105 of the Public Contract Code is amended to read:

12105. The Department of General Services and the ~~California~~ *Department of* Technology ~~Agency~~ shall coordinate in the development of policies and procedures that implement the intent of this chapter. The ~~California~~ *Department of* Technology ~~Agency~~ shall have the final authority in the determination of any general policy and the Department of General Services shall have the final authority in the determination of any procedures.

SEC. 527. Section 12120 of the Public Contract Code is amended to read:

12120. The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and acquisition of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase, shall be made by, or under the supervision of, the ~~California~~ *Department of* Technology ~~Agency~~. All acquisitions shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the

acquisition of information technology goods and services, except to the extent any directive or provision is uniquely applicable to information technology acquisitions. The ~~agency~~ *department* shall have responsibility for the establishment of policy and procedures for telecommunications. The ~~agency~~ *department* shall have responsibility for the establishment of tactical policy and procedures for information technology and telecommunications acquisitions consistent with statewide strategic policy. The Trustees of the California State University and the Board of Governors of the California Community Colleges shall assume the functions of the ~~agency~~ *department* with regard to acquisition of telecommunications goods and services by the California State University and the California Community Colleges, respectively. The trustees and the board shall each grant to the agency an opportunity to bid whenever the university or the college system solicits bids for telecommunications goods and services.

SEC. 528. Section 12121 of the Public Contract Code is amended to read:

12121. As used in this chapter:

(a) ~~"Agency"~~ *"Department"* means the ~~California~~ *Department of* Technology ~~Agency~~.

(b) "Tactical policy" means the policies of an organization necessary to direct operational staff in carrying out their day-to-day activities.

(c) "Strategic policy" means policy which defines the goals and objectives for an organization.

SEC. 529. Section 715 of the Public Resources Code is amended to read:

715. The Department of Forestry and Fire Protection, in cooperation with the ~~California Emergency Management Agency~~ *Office of Emergency Services,* shall develop a program to certify active duty military pilots to engage in firefighting in the state.

SEC. 530. Section 2802 of the Public Resources Code is amended to read:

2802. (a) The department shall develop jointly with the United States Geological Survey a prototype earthquake prediction system along the central San Andreas fault near the City of Parkfield.

(b) The system shall include a dense cluster of seismic and crustal deformation instrumentation capable of monitoring geophysical and geochemical phenomena associated with

earthquakes in the region. These data shall be analyzed continuously to determine if precursory anomalies can be identified with sufficient certainty to make a short-term prediction. The department shall not duplicate any of the ongoing efforts of the United States Geological Survey or any public or private college or university in the development of this system.

(c) In meeting its obligations under this chapter, the department shall develop, in cooperation with the United States Geological Survey, a plan for completion of the Parkfield instrumentation network. The plan shall provide for all of the following:

(1) Augmentation of monitoring instruments with the goal of detecting precursors of the Parkfield characteristic earthquake.

(2) Operation by the department of a remote data review station in Sacramento which will provide state scientists with data from the Parkfield prototype earthquake prediction system and other data, as required, to advise the ~~California Emergency Management Agency~~ *Office of Emergency Services* of the occurrence of precursors and verification of the predicted event.

(3) Advising the United States Geological Survey, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Seismic Safety Commission, and the California Earthquake Prediction Evaluation Council, regarding the department's review of Parkfield data.

(d) On January 1, 1987, the department shall issue a progress report to the Governor, the Legislature, and the Seismic Safety Commission. An annual progress report shall be made each year thereafter. The project shall terminate on January 1, 1992, unless extended by statute.

SEC. 531. Section 2803 of the Public Resources Code is amended to read:

2803. (a) Concurrently with the development of the Parkfield prototype earthquake prediction system, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, in consultation with the California Earthquake Prediction Evaluation Council, shall develop a comprehensive emergency response plan for short-term earthquake predictions. The plan shall include all of the following:

(1) A method of peer review involving the California Earthquake Prediction Evaluation Council to evaluate the validity of short-term earthquake predictions and to develop guidelines for initiating

state action in response to anomalous geochemical and geophysical phenomena.

(2) A means of rapidly activating governmental response to a predicted event.

(3) Plans for mitigating earthquake losses to vulnerable populations, including, but not limited to, drawdown of impoundment levels behind dams, positioning of emergency equipment in safe areas, and mobilization of firefighting, law enforcement, rescue, and medical personnel.

(4) A public warning system.

(5) Strategies for dealing with earthquake predictions that fail to occur (false alarms) and the failure of an earthquake prediction system to forecast a damaging event.

(b) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall consult with the department, the Seismic Safety Commission, the United States Geological Survey, and the Federal Emergency Management Agency in the development of the plan.

SEC. 532. Section 2811 of the Public Resources Code is amended to read:

2811. As used in this chapter:

(a) "Agency" *or "office"* means the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(b) "Commission" means the Seismic Safety Commission.

(c) "Local jurisdiction" means a city, county, or district.

(d) "Preparedness" means long-term preearthquake hazard mitigation, reconstruction, and recovery planning and preparation for emergency response.

SEC. 533. Section 2814 of the Public Resources Code is amended to read:

2814. The earthquake preparedness activities established under this chapter shall be carried out by the ~~agency~~ *Office of Emergency Services*. The commission and ~~agency~~ *Office of Emergency Services* shall work together and use appropriate scientific information and recommendations provided by the division. Other arrangements to coordinate the activities established by this chapter shall be made, through mutual agreement, by the commission and the ~~agency~~ *Office of Emergency Services*. A local advisory board shall be established to provide advice and guidance on project activities in the Counties of San Diego, Imperial, and Santa Barbara.

SEC. 534. Section 2815 of the Public Resources Code is amended to read:

2815. The ~~agency~~ *Office of Emergency Services* may enter into agreements with local, regional, and federal agencies, councils of government, and private organizations and contractors, and may receive and expend funds provided by those entities in support of comprehensive earthquake preparedness programs authorized by this chapter. The commission and ~~agency~~ *Office of Emergency Services* shall seek assistance from appropriate federal agencies.

SEC. 535. Section 3233 of the Public Resources Code is amended to read:

3233. (a) The division may develop field rules which establish volumetric thresholds for emergency reporting by the operator of oil discharges to land associated with onshore drilling, exploration, or production operations, where the oil discharges, because of the circumstances established pursuant to paragraph (1) of subdivision (c), cannot pass into or threaten the waters of the state. The division may not adopt field rules under this section, unless the State Water Resources Control Board and the Department of Fish and Game first concur with the volumetric reporting thresholds contained in the proposed field rules. Subchapter 1 (commencing with Section 1710) of Chapter 4 of Division 2 of Title 14 of the California Code of Regulations shall apply to the adoption and implementation of field rules authorized by this section.

(b) The authority granted to the division pursuant to subdivision (a) shall apply solely to oil fields located in the San Joaquin Valley, as designated by the division. The division shall adopt the field rules not later than January 1, 1998.

(c) For purposes of implementing this section, the division, the State Water Resources Control Board, and the Department of Fish and Game shall enter into an agreement that defines the process for establishing both of the following:

(1) The circumstances, such as engineered containment, under which oil discharges cannot pass into or threaten the waters of this state.

(2) The volumetric reporting thresholds that are applicable under the circumstances established pursuant to paragraph (1).

(d) In no case shall a reporting threshold established in the field rules, where the oil discharge cannot pass into or threaten the waters of this state, be less than one barrel (42 gallons), unless

otherwise established by federal law or regulation. Until field rules are adopted, emergency reporting of oil discharges shall continue as required by existing statute and regulations.

(e) An operator who discharges oil in amounts less than the volumetric thresholds adopted by the division pursuant to this section is exempt from all applicable state and local reporting requirements. Discharges of oil in amounts equal to, or greater than, the volumetric thresholds adopted by the division pursuant to this section shall be immediately reported to the ~~California Emergency Management Agency~~ *Office of Emergency Services* which shall inform the division and other local or state agencies as required by Section 8589.7 of the Government Code. Reporting to the ~~California Emergency Management Agency~~ *Office of Emergency Services* shall be deemed to be in compliance with all applicable state and local reporting requirements.

(f) Oil discharges below the reporting thresholds established in the field rules shall be exempt from the emergency notification or reporting requirements, and any penalties provided for nonreporting, established under paragraph (1) of subdivision (a) of Section 13260 of the Water Code, subdivisions (a), (c), and (e) of Section 13272 of the Water Code, Section 25507 of the Health and Safety Code, Sections 8670.25.5 and 51018 of the Government Code, and subdivision (h) of Section 1722 of Title 14 of the California Code of Regulations. Oil discharge reporting requirements under Section 51018 of the Government Code shall be applicable if a spill involves a fire or explosion.

(g) This section shall not affect existing reporting or notification requirements under federal law.

(h) Nothing in this section shall be construed to relieve any party of any responsibility established by statute, regulation, or order, to clean up or remediate any oil discharge, whether reportable or exempt pursuant to this section.

(i) Reporting provided pursuant to this section is not intended to prohibit any department or agency from seeking and obtaining any supplemental postreporting information to which the department or agency might otherwise be entitled.

(j) For purposes of this section, “oil” means naturally occurring crude oil.

SEC. 536. Section 5075.8 of the Public Resources Code is amended to read:

5075.8. (a) The department may convene a planning task force in order to facilitate the development of a comprehensive plan for the San Joaquin River Parkway.

The task force shall include, but not be limited to, a representative of the following entities:

(1) State Lands Commission.
(2) Department of Parks and Recreation.
(3) Department of Fish and Game.
(4) State Reclamation Board.
(5) County of Fresno.
(6) County of Madera.
(7) City of Fresno.
(8) Fresno County and City Chamber of Commerce.
(9) Fresno Sand and Gravel Producers.
(10) San Joaquin River Property Owners Association.
(11) Upper San Joaquin River Association.
(12) San Joaquin River Parkway and Conservation Trust.
(13) San Joaquin River Committee.
~~(14) Department of Boating and Waterways.~~

(b) The plan shall be submitted to the Legislature not later than June 1, 1991.

SEC. 537. Section 5099.12 of the Public Resources Code is amended to read:

5099.12. Of the annual apportionment of funds received by the director pursuant to this chapter, 60 percent shall be allocated for local governmental agency projects and 40 percent for state agency projects. The state agency share shall be disbursed to the following state agencies in the following percentages: ~~55~~ *60* percent to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation Board or the Department of Fish and Game; *and* 5 percent to the Department of Water Resources~~; and 5 percent to the Department of Boating and Waterways~~. The State Coastal Conservancy established pursuant to Section 31100 is eligible to compete for grants of funds for projects of an outdoor recreational nature from the 6 percent contingency fund established by this section.

If either the state or local governmental agencies are unable to utilize their allocation of funds, the director shall allocate the uncommitted funds to those state or local governmental agencies that are in position to take advantage of the funds during the year

in which they are allocated. The 60-percent allocation for local governmental agency projects and the 40-percent allocation to state agency projects shall not be computed until the costs of maintaining and keeping up to date the plan required pursuant to Section 5099.2 and an additional 6 percent for deposit to a contingency fund have been deducted.

SEC. 538. Section 10002 of the Public Resources Code is amended to read:

10002. The Director of Fish and Game shall prepare proposed streamflow requirements, which shall be specified in terms of cubic feet of water per second, for each stream or watercourse identified pursuant to Section 10001. In developing the requirements for each stream, the director shall consult with the Director of Water Resources, ~~the Director of Boating and Waterways,~~ the Director of Parks and Recreation and with all affected local governments. The Director of Fish and Game may also consult with any private individuals, groups, or organizations as the director deems advisable. Upon completion of the proposed streamflow requirements for any individual stream or watercourse, the Director of Fish and Game shall transmit these proposed requirements to the State Water Resources Control Board. The State Water Resources Control Board shall consider these requirements within a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and Game shall complete the preparation of proposed requirements for the initial streams not later than July 1, 1989.

The Department of Fish and Game may contract for temporary services for purposes of preparing the proposed streamflow requirements.

SEC. 539. Section 25402.9 of the Public Resources Code is amended to read:

25402.9. (a) On or before July 1, 1996, the commission shall develop, adopt, and publish an informational booklet to educate and inform homeowners, rental property owners, renters, sellers, brokers, and the general public about the statewide home energy rating program adopted pursuant to Section 25942.

(b) In the development of the booklet, the commission shall consult with representatives of the ~~Department of Real Estate~~ *Bureau of Real Estate*, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned

and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) The commission shall charge a fee for the informational booklet to recover its costs under subdivision (a).

SEC. 540. Section 25701 of the Public Resources Code is amended to read:

25701. (a) Within six months after the effective date of this division, each electric utility, gas utility, and fuel wholesaler or manufacturer in the state shall prepare and submit to the commission a proposed emergency load curtailment plan or emergency energy supply distribution plan setting forth proposals for identifying priority loads or users in the event of a sudden and serious shortage of fuels or interruption in the generation of electricity.

(b) The commission shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy distribution plan. If such a cooperative plan is developed between two or more electric utilities, such utilities may submit such joint plans to the commission in place of individual plans required by subdivision (a) of this section.

(c) The commission shall collect from all relevant governmental agencies, including, but not limited to, the Public Utilities Commission and the ~~California Emergency Management Agency~~ *Office of Emergency Services*, any existing contingency plans for dealing with sudden energy shortages or information related thereto.

SEC. 541. Section 25943 of the Public Resources Code is amended to read:

25943. (a) (1) By March 1, 2010, the commission shall establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. This program shall comprise a complementary portfolio of techniques, applications, and practices that will achieve greater energy efficiency in existing residential and nonresidential structures that fall significantly below the current standards in Title 24 of the California Code of Regulations, as determined by the commission.

(2) The comprehensive program may include, but need not be limited to, a broad range of energy assessments, building benchmarking, energy rating, cost-effective energy efficiency improvements, public and private sector energy efficiency financing options, public outreach and education efforts, and green workforce training.

(b) To develop and implement the program specified in subdivision (a), the commission shall do both of the following:

(1) Coordinate with the Public Utilities Commission and consult with representatives from the ~~Department of Real Estate~~ *Bureau of Real Estate*, the Department of Housing and Community Development, investor-owned and publicly owned utilities, local governments, real estate licensees, commercial and home builders, commercial property owners, small businesses, mortgage lenders, financial institutions, home appraisers, inspectors, energy rating organizations, consumer groups, environmental and environmental justice groups, and other entities the commission deems appropriate.

(2) Hold at least three public hearings in geographically diverse locations throughout the state.

(c) In developing the requirements for the program specified in subdivision (a), the commission shall consider all of the following:

(1) The amount of annual and peak energy savings, greenhouse gas emission reductions, and projected customer utility bill savings that will accrue from the program.

(2) The most cost-effective means and reasonable timeframes to achieve the goals of the program.

(3) The various climatic zones within the state.

(4) An appropriate method to inform and educate the public about the need for, benefits of, and environmental impacts of, the comprehensive energy efficiency program.

(5) The most effective way to report the energy assessment results and the corresponding energy efficiency improvements to the owner of the residential or nonresidential building, including, among other things, the following:

(A) Prioritizing the identified energy efficiency improvements.

(B) The payback period or cost-effectiveness of each improvement identified.

(C) The various incentives, loans, grants, and rebates offered to finance the improvements.

(D) Available financing options including all of the following:
(i) Mortgages or sales agreement components.
(ii) On-bill financing.
(iii) Contractual property tax assessments.
(iv) Home warranties.
(6) Existing statutory and regulatory requirements to achieve energy efficiency savings and greenhouse gas emission reductions.
(7) A broad range of implementation approaches, including both utility and nonutility administration of energy efficiency programs.
(8) Any other considerations deemed appropriate by the commission.
(d) The program developed pursuant to this section shall do all of the following:
(1) Minimize the overall costs of establishing and implementing the comprehensive energy efficiency program requirements.
(2) Ensure, for residential buildings, that the energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing. A transfer of property subject to the program implemented pursuant to this section shall not be invalidated solely because of the failure of a person to comply with a provision of the program.
(3) Ensure, for nonresidential buildings, that the energy improvements do not have an undue economic impact on California businesses.
(4) Determine, for residential buildings, the appropriateness of the Home Energy Rating System (HERS) program to support the goals of this section and whether there are a sufficient number of HERS-certified raters available to meet the program requirements.
(5) Determine, for nonresidential structures, the availability of an appropriate cost-effective energy efficiency assessment system and whether there are a sufficient number of certified raters or auditors available to meet the program requirements.
(6) Coordinate with the California Workforce Investment Board, the Employment Training Panel, the California Community Colleges, and other entities to ensure a qualified, well-trained workforce is available to implement the program requirements.
(7) Coordinate with, and avoid duplication of, existing proceedings of the Public Utilities Commission and programs administered by utilities.

(e) A home energy rating or energy assessment service does not meet the requirements of this section unless the service has been certified by the commission to be in compliance with the program criteria developed pursuant to this section and is in conformity with other applicable elements of the program.

(f) The commission shall periodically update the criteria and adopt any revision that, in its judgment, is necessary to improve or refine program requirements after receiving public input.

(g) Before implementing an element of the program developed pursuant to subdivision (a) that requires the expansion of statutory authority of the commission or the Public Utilities Commission, the commission and the Public Utilities Commission shall obtain legislative approval for the expansion of their authorities.

(h) The commission shall report on the status of the program in the integrated energy policy report pursuant to Section 25302.

(i) The commission shall fund activities undertaken pursuant to this section from the Federal Trust Fund consistent with the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or other sources of nonstate funds available to the commission for the purposes of this section.

(j) For purposes of this section, "energy assessment" means a determination of an energy user's energy consumption level, relative efficiency compared to other users, and opportunities to achieve greater efficiency or improve energy resource utilization.

SEC. 542. Section 29735 of the Public Resources Code is amended to read:

29735. There is hereby created the Delta Protection Commission consisting of 15 members as follows:

(a) One member of the board of supervisors, or his or her designee, of each of the five counties within the Delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of each of those respective counties.

(b) (1) Two elected city council members shall be selected and appointed by city selection committees, from the appropriate regions specified in subparagraphs (A) and (B), one in each of the following areas:

(A) One from the south Delta, consisting of the County of San Joaquin.

(B) One from the west Delta, from either the County of Contra Costa or the County of Solano, on a rotating basis.

(2) One elected city council member shall be selected and appointed by city selection committees, from regional and area councils of government from the north Delta, consisting of the Counties of Yolo and Sacramento.

(3) A city council member appointed pursuant to this subdivision may select a designee for purposes of this subdivision.

(4) Notwithstanding Section 29736, the term of office of the members selected pursuant to this subdivision shall be two years.

(c) One member each from the board of directors of three different reclamation districts that are located within the primary zone who are residents of the Delta, and who are elected by the trustees of reclamation districts pursuant to paragraphs (1), (2), and (3). Each reclamation district may nominate one director to be a member. The member from an area described in paragraph (1), (2), or (3) shall be selected from among the nominees by a majority vote of the reclamation districts in that area. A member selected pursuant to this subdivision may select a designee for this purpose. For the purposes of this section, each reclamation district shall have one vote. Reclamation district members shall consist of the following:

(1) One member from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973).

(2) One member from an area including the west Delta consisting of the area of the County of Contra Costa within the Delta and within the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).

(3) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).

(d) The Secretary of Food and Agriculture, or the secretary's sole designee.

(e) The executive officer of the State Lands Commission, or the executive officer's sole designee.

(f) The Secretary of the Natural Resources Agency, or his or her sole designee.

(g) The Secretary of ~~Business, Transportation and Housing,~~ *Transportation,* or his or her sole designee.

SEC. 543. Section 30169 of the Public Resources Code is amended to read:

30169. (a) The Legislature hereby finds and declares that a dispute exists as to the proper location of the inland boundary of the coastal zone in the area commonly known as Aliso Viejo and that, after extensive review of the history of this boundary segment, the criteria utilized to establish the boundary in 1976, and the relevant topographical information, it is possible to reach differing conclusions of equal validity regarding the proper location of the coastal zone boundary. The Legislature further finds that it is not possible to determine objectively which ridgeline feature in the Aliso Viejo area most closely approximates the boundary criteria utilized by the Legislature in 1976, and that it is in the best public interest to resolve the current boundary dispute in order to avoid further delay in the completion of the local coastal program for Orange County. The Legislature further finds that a timely resolution of this boundary dispute can best be accomplished by adjusting the coastal zone boundary in the manner set forth in this section and within the general framework of Section 30103 and consistent with the need to protect the coastal resources of the Aliso Viejo area and to carry out the requirements of Section 30213.

(b) In the Aliso Creek area of Orange County approximately 286 acres are added and approximately 1,020 acres are excluded as specifically shown on maps 28A and 28B dated April 15, 1980, and filed on April 22, 1980, with the office of the Secretary of State and which are on file in the office of the commission. The maps are hereby adopted by reference. The changes made in the inland boundary of the coastal zone by this section are in addition to any changes made by any map referred to in Section 30150, except to the extent that the changes made by this section affect a segment of the boundary previously changed by the map, in which case the changes made by this section shall supersede any of those previous changes.

(c) The executive director of the commission may adjust the precise location of the inland boundary of the coastal zone not more than 100 yards in either a seaward or landward direction in order to conform the precise boundary location to the specific limits of development adjacent to the coastal zone boundary as shown on maps 28A and 28B. However, in any subdivided area,

the executive director may adjust the precise location of the inland boundary of the coastal zone not more than 100 feet in a landward direction in order to include any development of the first row of lots immediately adjacent to the boundary as shown on those maps, where the executive director determines that the adjustment is necessary to ensure that adequate controls will be applied to the development in order to minimize any potential adverse effects on the coastal zone resources. The executive director shall prepare a detailed map showing any of the changes and shall file a copy of the map with the county clerk.

(d) Prior to the adoption and approval of a drainage control plan by the County of Orange for the Aliso Viejo Planned Community (as designated by Amendment No. L. U. 79-1 to the Land Use Element of the Orange County General Plan), the county shall consult with the executive director of the commission to ensure that any drainage control facilities located outside the coastal zone are adequate to provide for no increase in peak runoff, by virtue of the development of the Aliso Viejo Planned Community, which would result in adverse impacts on coastal zone resources.

(e) On or before January 31, 1981, the commission shall, after public hearing and in consultation with the County of Orange, certify or reject a local coastal program segment prepared and submitted by the county on or before August 1, 1980, for the following parcel in the Aliso Creek area: land owned by the Aliso Viejo Company, a California corporation, as of April 22, 1980, within the coastal zone as amended by this section. The local coastal program required by this subdivision shall, for all purposes of this division, constitute a certified local coastal program segment for that parcel in the County of Orange. The segment of the county's local coastal program for the parcel may be amended pursuant to this division relating to the amendment of local coastal programs. If the commission neither certifies nor rejects the submitted local coastal program within the time limit specified in this subdivision, the land added to the coastal zone by this section shall no longer be subject to this division. It is the intent of the Legislature in enacting this subdivision, that a procedure to expedite the preparation and adoption of a local coastal program for that land be established so that the public and the affected property owner know as soon as possible what uses are permissible.

(f) The commission, through its executive director, shall enter into a binding and enforceable agreement with Aliso Viejo Company, and the agreement shall be recorded as a covenant to run with the land with no prior liens other than tax and assessment liens restricting the Aliso Viejo Planned Community. The agreement shall provide for all of the following:

(1) The Aliso Viejo Company shall provide at least 1,000 units of for-sale housing to moderate-income persons at prices affordable to a range of households earning from 81 to 120 percent of the median income for Orange County as adjusted for family size pursuant to the commission's housing guidelines on affordable housing dated January 22, 1980, and July 16, 1979, and any additional provisions as agreed to between the commission and the Aliso Viejo Company as referred to in this subdivision.

For purposes of this subdivision, median income constitutes the figure most recently established by the Department of Housing and Urban Development at the time the public report for the units, or any portion thereof, is issued by the ~~Department of Real Estate~~ *Bureau of Real Estate*. The affordable units required by this subdivision shall be priced equally over the moderate-income range and shall reflect a reasonable mix as to size and number of bedrooms.

(2) The 1,000 units provided pursuant to this subdivision shall be sold subject to controls on resale substantially as provided in the commission's housing guidelines on affordable housing, dated January 22, 1980, and July 16, 1979, and any additional provisions as agreed to between the commission and the Aliso Viejo Company as referred to in this subdivision. On or before entering the agreement provided for herein, the Aliso Viejo Company shall enter into an agreement, approved by the executive director of the commission, with the Orange County Housing Authority or any other appropriate housing agency acceptable to the executive director of the commission to provide for the administration of the resale controls including the qualification of purchasers.

(3) The 1,000 units provided pursuant to this subdivision may be dispersed throughout the Aliso Viejo Planned Community, and shall be completed and offered for sale prior to, or simultaneously with, other units in the overall project, so that at any time at least 7½ percent of the units constructed shall be resale-controlled until the 1,000 units are completed.

(4) The Department of Housing and Community Development and the County of Orange shall be third party beneficiaries to the agreement provided in this subdivision and shall have the power to enforce any and all provisions of the agreement.

(5) This agreement may only be amended upon the determination of the Aliso Viejo Company or its successors or assigns, the commission, the Department of Housing and Community Development, and the County of Orange that the change is necessary in order to prevent adverse effects on the supply of low- and moderate-income housing opportunities and to improve the methods of providing the housing at continually affordable prices.

The Legislature hereby finds and declares that, because the Aliso Viejo Company, in addition to the 1,000 units of controlled housing provided in this subdivision, will provide for 2,000 units of subsidized affordable housing for low income persons and 2,000 affordable housing units for moderate income persons pursuant to the company's housing program, the purposes of Section 30213 will be met by enactment of this subdivision. The Legislature further finds and declares that the general provisions of this subdivision are specifically described and set forth in letters by Aliso Viejo Company and the executive director of the commission published in the Journals of the Senate and the Assembly of the 1979–80 Regular Session, and it is the intent of the Legislature that the commission and Aliso Viejo Company conform the agreement provided in this subdivision to the specific provisions described in the letters.

(g) Notwithstanding any other provision of law, the application of this division by the commission to the development or use of any infrastructure necessary and appropriate to serve development within the portions of the Aliso Viejo Planned Community located inland of the coastal zone as amended by this section, shall be strictly limited to addressing direct impacts on coastal zone resources and shall be carried out in a manner that assures that the infrastructure will be provided. Furthermore, the commission shall amend without conditions its prior permit No. A-61-76 to provide for its release of sewer outfall flow limitations necessary and appropriate to serve the Aliso Viejo Planned Community located inland of the coastal zone as amended by this subdivision. For purposes of this subdivision, "infrastructure" means those facilities

and improvements necessary and appropriate to develop, construct, and serve urban communities, including but not limited to, streets, roads, and highways; transportation systems and facilities; schools; parks; water and sewage systems and facilities; electric, gas, and communications systems and facilities; and drainage and flood control systems and facilities. Notwithstanding this subdivision, the commission may limit, or reasonably condition, the use of the transit corridor in Aliso Creek Valley to transit uses, uses approved by the commission that will serve the Aliso Greenbelt Project prepared by the State Coastal Conservancy, the provision of access to and from the sewage treatment works in Aliso Creek Valley, emergency uses, and drainage and flood control systems and facilities and other services approved pursuant to this subdivision.

(h) This section shall become operative only when the commission and Aliso Viejo Company have entered into the binding and enforceable agreement provided for in this section, and the agreement has been duly recorded with the county recorder of Orange County.

SEC. 544. Section 30301 of the Public Resources Code is amended to read:

30301. The commission shall consist of the following 15 members:

(a) The Secretary of the Resources Agency.

(b) The Secretary of ~~Business, Transportation and Housing~~ *Transportation*.

(c) The Chairperson of the State Lands Commission.

(d) Six representatives of the public from the state at large. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint two of these members.

(e) Six representatives selected from six coastal regions. The Governor shall select one member from the north coast region and one member from the south central coast region. The Speaker of the Assembly shall select one member from the central coast region and one member from the San Diego coast region. The Senate Committee on Rules shall select one member from the north central coast region and one member from the south coast region. For purposes of this division, these regions are defined as follows:

(1) The north coast region consists of the Counties of Del Norte, Humboldt, and Mendocino.

(2) The north central coast region consists of the Counties of Sonoma and Marin and the City and County of San Francisco.

(3) The central coast region consists of the Counties of San Mateo, Santa Cruz, and Monterey.

(4) The south central coast region consists of the Counties of San Luis Obispo, Santa Barbara, and Ventura.

(5) The south coast region consists of the Counties of Los Angeles and Orange.

(6) The San Diego coast region consists of the County of San Diego.

SEC. 545. Section 36300 of the Public Resources Code is amended to read:

36300. The Ocean Resources Task Force is hereby created in state government. The task force is composed of the following or their designee: the Secretary ~~of~~ *for* Environmental ~~Affairs~~ *Protection*, the Secretary of the *Natural* Resources Agency, the State ~~Director of~~ *Public* Health *Officer* ~~Services~~, the Secretary of ~~the Business,~~ Transportation ~~and Housing Agency~~, the Chairperson or Executive Officer of the State Lands Commission as determined by the commission, the Chairperson or Executive Director of the California Coastal Commission as determined by the commission, the Chairperson or Executive Officer of the Coastal Conservancy as determined by the conservancy, the Chairperson or Executive Director of the San Francisco Bay Conservation and Development Commission as determined by the commission, the Director of Conservation, the Director of Fish and Game, ~~the Director of Boating and Waterways,~~ the Director of Parks and Recreation, the ~~Chairperson of the Mining and Geology Board~~ *Office of Mine Reclamation*, the Chairperson or Executive Director of the State Water Resources Control Board as determined by the board, the ~~Executive Officer~~ *executive officer* of each California regional water quality control board for a coastal region, the Director of Finance, the Chairperson or Executive Director of the State Energy Resources Conservation and Development Commission as determined by the commission, the Chairperson of the State Air Resources Board, the Chairperson of the Senate Committee on Natural Resources and ~~Wildlife~~ *Water*, the Chairperson of the Assembly Committee *on Natural Resources*, the President of the University of California, the Chancellor of the California State University, and the Director of the California Sea Grant program.

SEC. 546. Section 40400 of the Public Resources Code is amended to read:

40400. There is in the ~~Natural Resources~~ *California Environmental Protection* Agency the Department of Resources Recycling and Recovery. The Department of Resources Recycling and Recovery shall be administered under the control of an executive officer known as the Director of Resources Recycling and Recovery. Any reference in any law or regulation to the State Solid Waste Management Board, the California Waste Management Board, or the California Integrated Waste Management Board shall hereafter apply to the Department of Resources Recycling and Recovery. The Director of Resources Recycling and Recovery shall hear and decide appeals of decisions of the Department of Resources Recycling and Recovery made pursuant to this division.

SEC. 547. Section 42703 of the Public Resources Code is amended to read:

42703. (a) Except as provided in subdivision (d), the Department of Transportation shall require the use of crumb rubber in lieu of other materials at the following levels for state highway construction or repair projects that use asphalt as a construction material:

(1) On and after January 1, 2007, the Department of Transportation shall use, on an annual average, not less than 6.62 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(2) On and after January 1, 2010, the Department of Transportation shall use, on an annual average, not less than 8.27 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(3) On and after January 1, 2013, the Department of Transportation shall use, on an annual average, not less than 11.58 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(b) (1) The annual average use of crumb rubber required in subdivision (a) shall be achieved on a statewide basis and shall not require the use of asphalt containing crumb rubber in each individual project or in a place where it is not feasible to use that material.

(2) On and after January 1, 2007, and before January 1, 2015, not less than 50 percent of the asphalt pavement used to comply

with the requirements of subdivision (a) shall be rubberized asphalt concrete.

(3) On and after January 1, 2015, the Department of Transportation may use any material meeting the definition of asphalt containing crumb rubber, with respect to product type or specification, to comply with the requirements of subdivision (a).

(c) (1) The Secretary ~~of Business, Transportation and Housing~~ *Transportation* shall, on or before ~~January 1, 2009, and on or before~~ January 1 ~~annually thereafter~~ *of each year*, prepare an analysis comparing the cost differential between asphalt containing crumb rubber and conventional asphalt. The analysis shall include the cost of the quantity of asphalt product needed per lane mile paved and, at a minimum, shall include all of the following:

(A) The lifespan and duration of the asphalt materials.

(B) The maintenance cost of the asphalt materials and other potential cost savings to the department, including, but not limited to, reduced soundwall construction costs resulting from noise reduction qualities of rubberized asphalt concrete.

(C) The difference between each type or specification of asphalt containing crumb rubber, considering the cost-effectiveness of each type or specification separately in comparison to the cost-effectiveness of conventional asphalt paving materials.

(2) Notwithstanding subdivision (a), if, after completing the analysis required by paragraph (1), the secretary determines that the cost of asphalt containing crumb rubber exceeds the cost of conventional asphalt, the Department of Transportation shall continue to meet the requirement specified in paragraph (1) of subdivision (a), and shall not implement the requirement specified in paragraph (2) of subdivision (a). If the secretary determines, pursuant to an analysis prepared pursuant to paragraph (1), that the cost of asphalt containing crumb rubber does not exceed the cost of conventional asphalt, the Department of Transportation shall implement paragraph (2) of subdivision (a) within one year of that determination, but not before January 1, 2010.

(3) Notwithstanding subdivision (a), if the Department of Transportation delays the implementation of paragraph (2) of subdivision (a), the Department of Transportation shall not implement the requirement of paragraph (3) of subdivision (a) until three years after the date the department implements paragraph (2) of subdivision (a).

(d) For the purposes of complying with the requirements of subdivision (a), only crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States may be used.

(e) The Department of Transportation and the board shall develop procedures for using crumb rubber and other derived tire products in other projects.

(f) The Department of Transportation shall notify and confer with the East Bay Municipal Utility District before using asphalt containing crumb rubber on a state highway construction or repair project that overlays district infrastructure.

(g) For purposes of this section the following definitions shall apply:

(1) "Asphalt containing crumb rubber" means any asphalt pavement construction, rehabilitation, or maintenance material that contains reclaimed tire rubber and that is specified for use by the Department of Transportation.

(2) "Crumb rubber" or "CRM" has the same meaning as defined in Section 42801.7.

(3) "Rubberized asphalt concrete" or "RAC" means a paving material that uses an asphalt rubber binder containing an amount of reclaimed tire rubber that is 15 percent or more by weight of the total blend, and that meets other specifications for both the physical properties of asphalt rubber and the application of asphalt rubber, as defined in the American Society for Testing and Materials (ASTM) Standard Specification for Asphalt-Rubber Binder.

SEC. 548. Section 43035 of the Public Resources Code is amended to read:

43035. (a) The board, in cooperation with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, shall develop an integrated waste management disaster plan to provide for the handling, storage, processing, transportation, and diversion from disposal sites, or provide for disposal at a disposal site where absolutely necessary, of solid waste, resulting from a state of emergency or a local emergency, as defined, respectively, in subdivisions (b) and (c) of Section 8558 of the Government Code.

(b) The board may adopt regulations, including emergency regulations, necessary to carry out the integrated waste management disaster plan.

SEC. 549. Section 75121 of the Public Resources Code is amended to read:

75121. (a) The Strategic Growth Council is hereby established in state government and it shall consist of the Director of State Planning and Research, the Secretary of the Resources Agency, the Secretary for Environmental Protection, the Secretary of ~~Business, Transportation and Housing~~ *Transportation*, the Secretary of California Health and Human Services, and one member of the public to be appointed by the Governor. The public member shall have a background in land use planning, local government, resource protection and management, or community development or revitalization.

(b) Staff for the council shall be reflective of the council's membership.

SEC. 550. Section 783 of the Public Utilities Code is amended to read:

783. (a) The commission shall continue to enforce the rules governing the extension of service by gas and electrical corporations to new residential, commercial, agricultural, and industrial customers in effect on January 1, 1982, except that the commission shall amend the existing rules to permit applicants for service to install extensions in accordance with subdivision (f). Except for periodic review provisions of existing rules, and amendments to permit installations by an applicant's contractor, the commission shall not investigate amending these rules or issue any orders or decisions which amend these rules, unless the investigation or proceeding for the issuance of the order or decision is conducted pursuant to subdivision (b).

(b) Whenever the commission institutes an investigation into the terms and conditions for the extension of services provided by gas and electrical corporations to new or existing customers, or considers issuing an order or decision amending those terms or conditions, the commission shall make written findings on all of the following issues:

(1) The economic effect of the line and service extension terms and conditions upon agriculture, residential housing, mobilehome

parks, rural customers, urban customers, employment, and commercial and industrial building and development.

(2) The effect of requiring new or existing customers applying for an extension to an electrical or gas corporation to provide transmission or distribution facilities for other customers who will apply to receive line and service extensions in the future.

(3) The effect of requiring a new or existing customer applying for an extension to an electrical or gas corporation to be responsible for the distribution of, reinforcements of, relocations of, or additions to that gas or electrical corporation.

(4) The economic effect of the terms and conditions upon projects, including redevelopment projects, funded or sponsored by cities, counties, or districts.

(5) The effect of the line and service extension regulations, and any modifications to them, on existing ratepayers.

(6) The effect of the line and service extension regulations, and any modifications to them, on the consumption and conservation of energy.

(7) The extent to which there is cost-justification for a special line and service extension allowance for agriculture.

(c) The commission shall request the assistance of appropriate state agencies and departments in conducting any investigation or proceeding pursuant to subdivision (b), including, but not limited to, the ~~Business, Transportation and Housing Agency~~ *Transportation Agency*, the Department of Food and Agriculture, the Department of Consumer Affairs, the ~~Department of Real Estate~~ *Bureau of Real Estate*, the Department of Housing and Community Development, and the Department of Economic and Business Development.

(d) Any new order or decision issued pursuant to an investigation or proceeding conducted pursuant to subdivision (b) shall become effective on July 1 of the year which follows the year when the new order or decision is adopted by the commission, so as to ensure that the public has at least six months to consider the new order or decision.

(e) The commission shall conduct any investigation or proceeding pursuant to subdivision (b) within the commission's existing budget, and any state agency or department which is requested by the commission to provide assistance pursuant to

subdivision (c) shall also provide the assistance within the agency's or department's existing budget.

(f) An electrical or gas corporation shall permit any new or existing customer who applies for an extension of service from that corporation to install a gas or electric extension in accordance with the regulations of the commission and any applicable specifications of that electrical or gas corporation.

SEC. 551. Section 883 of the Public Utilities Code is amended to read:

883. (a) The commission shall, on or before February 1, 2001, issue an order initiating an investigation and opening a proceeding to examine the current and future definitions of universal service. That proceeding shall include public hearings that encourage participation by a broad and diverse range of interests from all areas of the state, including, but not limited to, all of the following:

(1) Consumer groups.

(2) Communication service providers, including all providers of high-speed access services.

(3) Facilities-based telephone providers.

(4) Information service providers and Internet access providers.

(5) Rural and urban users.

(6) Public interest groups.

(7) Representatives of small and large businesses and industry.

(8) Local agencies.

(9) State agencies, including, but not limited to, all of the following:

~~(A) The Business, Transportation and Housing Agency.~~

~~(B)~~

(A) The ~~State and Consumer Services~~ *Government Operations* Agency.

~~(C)~~

(B) The State Department of Education.

~~(D)~~

(C) The State Department of *Public* Health ~~Services~~.

~~(E)~~

(D) The California State Library.

(10) Colleges and universities.

(b) The objectives of the proceeding set forth in subdivision (a) shall include all of the following:

(1) To investigate the feasibility of redefining universal service in light of current trends toward accelerated convergence of voice, video, and data, with an emphasis on the role of basic telecommunications and Internet services in the workplace, in education and workforce training, access to health care, and increased public safety.

(2) To evaluate the extent to which technological changes have reduced the relevance of existing regulatory regimes given their current segmentation based upon technology.

(3) To receive broad-based input from a cross section of interested parties and make recommendations on whether video, data, and Internet service providers should be incorporated into an enhanced Universal Lifeline Service program, as specified, including relevant policy recommendations regarding regulatory and statutory changes and funding options that are consistent with the principles set forth in subdivision (c) of Section 871.7.

(4) To reevaluate prior definitions of basic service in a manner that will, to the extent feasible, effectively incorporate the latest technologies to provide all California residents with all of the following:

(A) Improved quality of life.

(B) Expanded access to public and private resources for education, training, and commerce.

(C) Increased access to public resources enhancing public health and safety.

(D) Assistance in bridging the "digital divide" through expanded access to new technologies by low income, disabled, or otherwise disadvantaged Californians.

(5) To assess projected costs of providing enhanced universal lifeline service in accordance with the intent of this article, and to delineate the subsidy support needed to maintain the redefined scope of universal service in a competitive market.

(6) To design and recommend an equitable and broad-based subsidy support mechanism for universal service in competitive markets in a manner that conforms with subdivision (c) of Section 871.7.

(7) To develop a process to periodically review and revise the definition of universal service to reflect new technologies and markets consistent with subdivision (c) of Section 871.7.

(8) To consider whether similar regulatory treatment for the provision of similar services is appropriate and feasible.

(c) In conducting its investigation, the commission shall take into account the role played by a number of diverse but convergent industries and providers, even though many of these entities are not subject to economic regulation by the commission or any other government entity.

(d) The recommendations of the commission shall be consistent with state policies for telecommunications as set forth in Section 709, and with all of the following principles:

(1) Universal service shall, to the extent feasible, be provided at affordable prices regardless of linguistic, cultural, ethnic, physical, financial, and geographic considerations.

(2) Consumers shall be provided access to all information needed to allow timely and informed choices about telecommunications products and services that are part of the universal service program and how best to use them.

(3) Education, health care, community, and government institutions shall be positioned as early recipients of new and emerging technologies so as to maximize the economic and social benefits of these services.

(e) The commission shall complete its investigation and report to the Legislature its findings and recommendations on or before January 1, 2002.

SEC. 552. Section 2774.5 of the Public Utilities Code is amended to read:

2774.5. An electrical corporation or local publicly owned electric utility shall immediately notify the Commissioner of the California Highway Patrol, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, and the sheriff and any affected chief of police of the specific area within their respective law enforcement jurisdictions that will sustain a planned loss of power as soon as the planned loss becomes known as to when and where that power loss will occur. The notification shall include common geographical boundaries, grid or block numbers of the affected area, and the next anticipated power loss area designated by the electrical corporation or public entity during rotating blackouts.

SEC. 553. Section 2872.5 of the Public Utilities Code, as amended by Section 64 of Chapter 404 of the Statutes of 2010, is amended to read:

2872.5. (a) The commission, in consultation with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and the ~~California~~ *Department of* Technology ~~Agency~~, shall open an investigative proceeding to determine whether standardized notification systems and protocol should be utilized by entities that are authorized to use automatic dialing-announcing devices pursuant to subdivision (e) of Section 2872, to facilitate notification of affected members of the public of local emergencies. The commission shall not establish standards for notification systems or standard notification protocol unless it determines that the benefits of the standards exceed the costs.

(b) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding, including recommendations for funding notification systems and any statutory modifications needed to facilitate notification of affected members of the public of local emergencies.

SEC. 554. Section 2892 of the Public Utilities Code is amended to read:

2892. (a) A provider of commercial mobile radio service, as defined in Section 216.8, shall provide access for end users of that service to the local emergency telephone systems described in the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code). “911” shall be the primary access number for those emergency systems. A provider of commercial mobile radio service, in accordance with all applicable Federal Communication Commission orders, shall transmit all “911” calls from technologically compatible commercial mobile radio service communication devices without requiring user validation or any similar procedure. A provider of commercial mobile radio service may not charge any airtime, access, or similar usage charge for any “911” call placed from a commercial mobile radio service telecommunications device to a local emergency telephone system.

(b) A “911” call from a commercial mobile radio service telecommunications device may be routed to a public safety answering point other than the Department of the California

Highway Patrol only if the alternate routing meets all of the following requirements:

(1) The "911" call originates from a location other than from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol.

(2) The alternate routing is economically and technologically feasible.

(3) The alternate routing will benefit public safety and reduce burdens on dispatchers for the Department of the California Highway Patrol.

(4) The Department of the California Highway Patrol, the ~~California~~ *Department of* Technology ~~Agency~~, and the proposed alternate public safety answering point, in consultation with the wireless industry, providers of "911" selective routing service, and local law enforcement officials, determine that it is in the best interest of the public and will provide more effective emergency service to the public to route "911" calls that do not originate from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol to another public safety answering point.

SEC. 555. Section 2892.1 of the Public Utilities Code is amended to read:

2892.1. (a) For purposes of this section, "telecommunications service" means voice communication provided by a telephone corporation as defined in Section 234, voice communication provided by a provider of satellite telephone services, voice communication provided by a provider of mobile telephony service, as defined in Section 2890.2, and voice communication provided by a commercially available facilities-based provider of voice communication services utilizing voice over Internet Protocol or any successor protocol.

(b) The commission, in consultation with the ~~California~~ *Office of* Emergency ~~Management Agency~~ *Services* and the ~~California~~ *Department of* Technology ~~Agency~~, shall open an investigative or other appropriate proceeding to identify the need for telecommunications service systems not on the customer's premises to have backup electricity to enable telecommunications networks to function and to enable the customer to contact a public safety answering point operator during an electrical outage, to determine

performance criteria for backup systems, and to determine whether the best practices recommended by the Network Reliability and Interoperability Council in December 2005, for backup systems have been implemented by telecommunications service providers operating in California. If the commission determines it is in the public interest, the commission shall, consistent with subdivisions (c) and (d), develop and implement performance reliability standards.

(c) The commission, in developing any standards pursuant to the proceeding required by subdivision (b), shall consider current best practices and technical feasibility for establishing battery backup requirements.

(d) The commission shall not implement standards pursuant to the proceeding required by subdivision (b) unless it determines that the benefits of the standards exceed the costs.

(e) The commission shall determine the feasibility of the use of zero greenhouse gas emission fuel cell systems to replace diesel backup power systems.

(f) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding.

SEC. 556. Section 7551.1 of the Public Utilities Code is amended to read:

7551.1. The Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation* may grant to every railroad corporation whose primary business is the transportation of passengers the rights-of-way for the location, construction, and maintenance of its necessary works and for every necessary adjunct thereto over any portion of highway owned by the State of California which is not otherwise disposed of or in use, not in any case exceeding in ~~lenght~~ *length* or width that which is necessary for the construction of works and adjuncts, or for the protection thereof, and in no case to exceed 200 feet in width.

SEC. 557. Section 7551.3 of the Public Utilities Code is amended to read:

7551.3. (a) To ensure that a fair and reasonable price is paid for public acquisition of railroad rights-of-way, it is the intent of the Legislature to have railroad rights-of-way valuation procedures and guidelines developed and adopted for use when state and federal funds are expended.

(b) The Secretary of ~~Business, Transportation, and Housing,~~ *Transportation* in collaboration with other public agencies and within existing resources, shall develop recommended procedures and guidelines for valuation of railroad rights-of-way.

(c) The recommended procedures and guidelines shall be transmitted to the Legislature and Governor on or before March 1, 1994.

SEC. 558. Section 7661 of the Public Utilities Code is amended to read:

7661. (a) The commission shall require every railroad corporation operating in this state to develop, within 90 days of the effective date of the act adding this section, in consultation with, and with the approval of, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, a protocol for rapid communications with the ~~agency~~ *Office of Emergency Services*, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety.

(b) A railroad corporation shall promptly notify the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Department of the California Highway Patrol, and designated county public safety agencies, through a communication to the Warning Center of the ~~California Emergency Management Agency~~ *Office of Emergency Services*, if there is a runaway train or any other uncontrolled train movement that threatens public health and safety, in accordance with the railroad corporation's communications protocol developed pursuant to subdivision (a).

(c) The notification required pursuant to subdivision (b) shall include the following information, whether or not an accident or spill occurs:

(1) The information required by subdivision (c) of Section 7673.

(2) In the event of a runaway train, a train list.

(3) In the event of an uncontrolled train movement or uncontrolled movement of railcars, a track list or other inventory document if available.

(d) The consumer protection and safety division shall investigate any incident that results in a notification required pursuant to subdivision (b), and shall report its findings concerning the cause or causes to the commission. The commission shall include the

division's report in its report to the Legislature pursuant to Section 7711.

SEC. 559. Section 7662 of the Public Utilities Code is amended to read:

7662. (a) (1) A railroad corporation shall place appropriate signage to notify an engineer of an approaching grade crossing, consistent with federal law.

(2) Whistle post signs shall be deemed to satisfy this requirement.

(b) (1) Whenever a railroad issues written or verbal instructions to employees that may restrict or stop train movements because of track conditions, structures, persons, or equipment working, appropriate flags that are readily visible and easily recognizable to the crews on both passenger and freight trains shall be displayed as quickly as practicable. Yellow flags shall be used for temporary speed restrictions, consistent with paragraphs (2) and (3). Yellow-red flags shall be used, consistent with paragraphs (4) and (5), when a train may be required to stop.

(2) Yellow flags shall be used to warn trains to restrict movement because of track conditions or structures. Except as provided in paragraph (3), a yellow flag shall be displayed two miles before the restricted area in order to ensure that train movement is restricted at the proper location.

(3) When the restricted area is close to a terminal, junction, or another area, the yellow flag may be displayed less than two miles before the restricted area. This information shall be included in the written instructions to employees issued pursuant to paragraph (1).

(4) Yellow-red flags shall be used to warn trains to be prepared to stop because of persons or equipment working. A yellow-red flag shall be displayed two miles before the restricted area in order to ensure that the train is prepared to stop at the proper location.

(5) When the restricted area is close to a terminal, junction, or other area, the yellow-red flag may be displayed less than two miles before the restricted area. This information shall be included in the written instructions to employees issued pursuant to paragraph (1).

(6) Flags shall be displayed only on the track affected and shall be displayed to the right side of the track as viewed from the

approaching train. The flags shall be displayed to protect all possible access to the restricted area.

(c) A railroad corporation shall provide milepost markers to train crews at accurate one-mile intervals. The markers shall be readily visible to the locomotive engineer within the locomotive cab, and shall be kept in good repair and replaced when necessary.

(d) A railroad corporation shall place whistle signs to the right of the main track in the direction of approach, exactly one-quarter mile from the entrance to any grade crossing as a point of reference for locomotive engineers who blow the whistle and ring the bell for these grade crossings as a warning to the public. The signs, which shall consist of an "X" or "W" or other identifiable mark or symbol on a square plate mounted on a post, shall be readily visible to a locomotive engineer within the locomotive cab, shall be kept in good repair, and shall be replaced when necessary.

(e) A railroad corporation shall place permanent speed signs to the right of the track in the direction of approach, two miles in advance of the point where the speed is either increased or decreased for both passenger and freight trains. The signs shall be readily visible to a locomotive engineer within the locomotive cab, shall be kept in good repair, and shall be replaced when necessary.

(f) A railroad corporation shall notify the commission and the collective bargaining representative of any affected employee of any new utilization of remote control locomotives in the state, on or after January 1, 2007.

(g) A railroad corporation shall provide immediate notification to the ~~California Emergency Management Agency~~ *Office of Emergency Services* of accidents, incidents, and other events, concurrent with those provided to the Federal Railroad Administration's National Response Center, as required by Part 225.9 of Title 49 of the Code of Federal Regulations.

SEC. 560. Section 7663 of the Public Utilities Code is amended to read:

7663. Whenever the Department of the California Highway Patrol or a designated local public safety agency responds to a railroad accident, the accident shall be reported to the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

SEC. 561. Section 7665.1 of the Public Utilities Code is amended to read:

7665.1. Unless the context requires otherwise, for purposes of this article:

(a) "Agency" *or "office"* means the ~~California Emergency Management Agency~~ *Office of Emergency Services*.

(b) "Secretary" *or "director"* means the ~~Secretary of Emergency Management~~ *Director of Emergency Services*.

SEC. 562. Section 7665.2 of the Public Utilities Code is amended to read:

7665.2. By July 1, 2007, every operator of rail facilities shall provide a risk assessment to the commission and the ~~agency~~ *office* for each rail facility in the state that is under its ownership, operation, or control. The risk assessment shall, for each rail facility, describe all of the following:

(a) The location and functions of the rail facility.

(b) All types of cargo that are moved through, or stored at, the rail facility.

(c) Any hazardous cargo that is moved through, or stored at, the rail facility.

(d) The frequency that any hazardous cargo is moved through, or stored at, the rail facility.

(e) A description of the practices of the rail operator to prevent acts of sabotage, terrorism, or other crimes on the rail facility.

(f) All training programs that the rail operator requires for its employees at the rail facility.

(g) The emergency response procedures of the rail operator to deal with acts of sabotage, terrorism, or other crimes at the rail facility.

(h) The procedures of the rail operator to communicate with local and state law enforcement personnel, emergency personnel, transportation officials, and other first responders, in the event of acts of sabotage, terrorism, or other crimes at the rail facility.

SEC. 563. Section 7665.3 of the Public Utilities Code is amended to read:

7665.3. The ~~agency~~ *office* may provide the risk assessment provided pursuant to Section 7665.2 to other law enforcement or emergency personnel.

SEC. 564. Section 7665.4 of the Public Utilities Code is amended to read:

7665.4. (a) By January 1, 2008, every rail operator shall develop and implement an infrastructure protection program to

protect rail infrastructure in the state from acts of sabotage, terrorism, or other crimes.

(b) (1) The infrastructure protection program shall address the security of all critical infrastructure.

(2) The infrastructure protection program shall provide training to all employees of the rail operator performing work at a rail facility on how to recognize, prevent, and respond to acts of sabotage, terrorism, or other crimes.

(c) (1) All employees of a contractor or subcontractor of a rail operator, and any other person performing work at a rail facility that is not the employee of the rail operator, shall receive training equivalent to that received by employees of the rail operator pursuant to paragraph (2) of subdivision (b), within a reasonable period of time. The commission, in consultation with the ~~secretary~~ *director*, may adopt reasonable rules or orders to implement this requirement.

(2) All employees of a contractor or subcontractor of a rail operator, and any other person performing work at a rail facility that is not the employee of the rail operator, shall undergo an equivalent evaluation of their background, skills, and fitness as the rail operator implements for its employees pursuant to its infrastructure protection plan. The commission, in consultation with the ~~secretary~~ *director*, may adopt reasonable rules or orders to implement this requirement.

(d) Each rail operator in the state shall provide to the commission and the ~~secretary~~ *director* a copy of its infrastructure protection program. Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the commission and the ~~secretary~~ *director* shall keep this information confidential.

(e) The infrastructure protection program shall be updated by the rail operator at least once every year, and the updated plan shall be submitted to the commission and the ~~secretary~~ *director*.

(f) The commission, in consultation with the ~~agency~~ *office*, shall review the infrastructure protection program submitted by a rail operator, may conduct inspections to facilitate the review, and may order a rail operator to improve, modify, or change its program to comply with the requirements of this article.

(g) The commission may fine a rail operator for failure to comply with the requirements of this section or an order of the commission pursuant to this section.

SEC. 565. Section 7673 of the Public Utilities Code is amended to read:

7673. Each railroad corporation which transports hazardous materials in the state shall do all of the following:

(a) Provide a system map of the state to the Office of Emergency Services and to the Public Utilities Commission, showing practical groupings of mileposts on the system and showing mileposts of stations, terminals, junction points, road crossings, and the locations of natural gas and liquid pipelines in railroad rights-of-way.

(b) Annually submit to the ~~California Emergency Management Agency~~ *Office of Emergency Services* a copy of a publication which identifies emergency handling guidelines for the surface transportation of hazardous materials, except that if the railroad corporation is classified as a class I carrier by the Interstate Commerce Commission pursuant to Subpart A of Part 1201 of Subchapter C of Chapter X of the Code of Federal Regulations, the railroad corporation shall annually submit to the ~~California Emergency Management Agency~~ *Office of Emergency Services* 50 copies of this publication which the agency shall make available to the Public Utilities Commission and local administering agencies and to other response agencies. These guidelines shall not be considered comprehensive instructions for the handling of any specific incident.

(c) If there is a train incident resulting in a release or an overturned railcar or an impact which threatens a release of a hazardous material, provide the emergency response agency with all of the following information:

(1) A list of each car in the train and the order of the cars.

(2) The contents of each car, if loaded, in the train.

(3) Identification of the cars and contents in the train which are involved in the incident, including, but not limited to, those cars which have derailed.

(4) Emergency handling procedures for each hazardous material transported in or on the involved cars of the train.

SEC. 566. Section 7718 of the Public Utilities Code is amended to read:

7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is hereby created in the California Environmental Protection Agency. The force shall be responsible for providing immediate onsite response capability in the event of large-scale releases of toxic materials resulting from surface transportation accidents and for implementing the state hazardous materials incident prevention and immediate deployment plan. This force shall act cooperatively and in concert with existing local emergency response units. The force shall consist of representatives of all of the following:

(1) Department of Fish and Game.

(2) California Environmental Protection Agency.

(3) State Air Resources Board.

(4) California Integrated Waste Management Board.

(5) California regional water quality control boards.

(6) Department of Toxic Substances Control.

(7) Department of Pesticide Regulation.

(8) Office of Environmental Health Hazard Assessment.

(9) State Department of *Public* Health ~~Services~~.

(10) Department of the California Highway Patrol.

(11) Department of Food and Agriculture.

(12) Department of Forestry and Fire Protection.

(13) Department of Parks and Recreation.

~~(14) Department of Boating and Waterways.~~

~~(15) California~~

(14) Public Utilities Commission.

~~(16)~~

(15) Any other potentially affected state, local, or federal agency.

~~(17) California~~

(16) Office of Emergency Management ~~Agency~~ *Services*.

(b) The California Environmental Protection Agency shall develop a state railroad accident prevention and immediate deployment plan in cooperation with the State Fire Marshal, affected businesses, and all of the entities listed in paragraphs (1) to (17), inclusive, of subdivision (a).

(c) The plan specified in subdivision (b) shall be a comprehensive set of policies and directions that every potentially affected state agency and business shall follow if there is a railroad accident to minimize the potential damage to the public health and

safety, property, and the environment that might result from accidents involving railroad activities in the state.

SEC. 567. Section 99212 of the Public Utilities Code is amended to read:

99212. "Secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*.

SEC. 568. Section 99243 of the Public Utilities Code is amended to read:

99243. (a) The Controller, in cooperation with the department and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them and to the Controller within 90 days of the end of the fiscal year. If the report is filed in electronic format as prescribed by the Controller, the report shall be furnished within 110 days after the close of each fiscal year. The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year and (2) the data necessary to determine which section, with respect to Sections 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, the operator is required to be in compliance in order to be eligible for funds under this article.

(b) As a supplement to the annual report prepared pursuant to subdivision (a), each operator shall include an estimate of the amount of revenues to be generated from each source and its proposed application for the next fiscal year, and a report on the extent to which it has contracted with the Prison Industry Authority, including the nature and dollar amounts of all contracts entered into during the reporting period and proposed for the next reporting period.

(c) The Controller shall instruct the county auditor to withhold payments from the fund to an operator that has not submitted its annual report to the Controller within the time specified by subdivision (a).

(d) In establishing the uniform system of accounts and records, the Controller shall include the data required by the United States Department of Transportation and the department.

(e) Notwithstanding any other law or any regulation, including any California Code of Regulations provision, the City of El Segundo, the City of Huntington Beach, the City of Inglewood,

the City of Long Beach, or the City of South Lake Tahoe may select, for purposes of this chapter, on a one-time basis, a fiscal year that does not end on June 30. After the city has sent a written notice to the Secretary of ~~Business, Transportation and Housing~~ *Transportation* and the Controller that the city has selected a fiscal year other than one ending on June 30, the fiscal year selected by the city shall be its fiscal year for all reports required by the state under this chapter.

SEC. 569. Section 131242 of the Public Utilities Code is amended to read:

131242. The Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation* shall convene the initial meeting of the county transportation authority at the county seat, within 90 days after the authority is created.

SEC. 570. Section 161003 of the Public Utilities Code is amended to read:

161003. As used in this division, "secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*.

SEC. 571. Section 185020 of the Public Utilities Code is amended to read:

185020. (a) There is in ~~state government~~ *the Transportation Agency* a High-Speed Rail Authority.

(b) (1) The authority is composed of nine members as follows:

(A) Five members appointed by the Governor.

(B) Two members appointed by the Senate Committee on Rules.

(C) Two members appointed by the Speaker of the Assembly.

(2) For the purposes of making appointments to the authority, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall take into consideration geographical diversity to ensure that all regions of the state are adequately represented.

(c) Except as provided in subdivision (d), and until their successors are appointed, members of the authority shall hold office for terms of four years. A vacancy shall be filled by the appointing power making the original appointment, by appointing a member to serve the remainder of the term.

(d) (1) On and after January 1, 2001, the terms of all persons who are then members of the authority shall expire, but those members may continue to serve until they are reappointed or until their successors are appointed. In order to provide for evenly

staggered terms, persons appointed or reappointed to the authority after January 1, 2001, shall be appointed to initial terms to expire as follows:

(A) Of the five persons appointed by the Governor, one shall be appointed to a term which expires on December 31, 2002, one shall be appointed to a term which expires on December 31, 2003, one shall be appointed to a term which expires on December 31, 2004, and two shall be appointed to terms which expires on December 31, 2005.

(B) Of the two persons appointed by the Senate Committee on Rules, one shall be appointed to a term which expires on December 31, 2002, and one shall be appointed to a term which expires on December 31, 2004.

(C) Of the two persons appointed by the Speaker of the Assembly, one shall be appointed to a term which expires on December 31, 2003, and one shall be appointed to a term which expires on December 31, 2005.

(2) Following expiration of each of the initial terms provided for in this subdivision, the term shall expire every four years thereafter on December 31.

(e) Members of the authority are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(f) From among its members, the authority shall elect a chairperson, who shall preside at all meetings of the authority, and a vice chairperson to preside in the absence of the chairperson. The chairperson shall serve a term of one year.

(g) Five members of the authority constitute a quorum for taking any action by the authority.

SEC. 572. Section 185035 of the Public Utilities Code is amended to read:

185035. (a) The authority shall establish an independent peer review group for the purpose of reviewing the planning, engineering, financing, and other elements of the authority's plans and issuing an analysis of appropriateness and accuracy of the authority's assumptions and an analysis of the viability of the authority's financing plan, including the funding plan for each corridor required pursuant to subdivision (b) of Section 2704.08 of the Streets and Highways Code.

(b) The peer review group shall include all of the following:

(1) Two individuals with experience in the construction or operation of high-speed trains in Europe, Asia, or both, designated by the Treasurer.

(2) Two individuals, one with experience in engineering and construction of high-speed trains and one with experience in project finance, designated by the Controller.

(3) One representative from a financial services or financial consulting firm who shall not have been a contractor or subcontractor of the authority for the previous three years, designated by the Director of Finance.

(4) One representative with experience in environmental planning, designated by the Secretary of ~~Business, Transportation and Housing~~ *Transportation*.

(5) Two expert representatives from agencies providing intercity or commuter passenger train services in California, designated by the Secretary of ~~Business, Transportation and Housing~~ *Transportation*.

(c) The peer review group shall evaluate the authority's funding plans and prepare its independent judgment as to the feasibility and reasonableness of the plans, appropriateness of assumptions, analyses, and estimates, and any other observations or evaluations it deems necessary.

(d) The authority shall provide the peer review group any and all information that the peer review group may request to carry out its responsibilities.

(e) The peer review group shall report its findings and conclusions to the Legislature no later than 60 days after receiving the plans.

SEC. 573. Section 97.2 of the Revenue and Taxation Code is amended to read:

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402
Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776

San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the ~~Secretary of Emergency Management~~ *Director of Emergency Services*, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for "museums" pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the ~~Secretary of the California Emergency Management Agency~~ *Director of Emergency Services*, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations

do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, "revenues that are pledged to debt service" include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each

special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of

education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) (I) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there

are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subclause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(II) For the 2007–08 fiscal year and for each fiscal year thereafter, both of the following apply:

(ia) In allocating the revenues described in subclause (I), the auditor shall apportion funds to the appropriate special education local plan area to cover the amount determined in Section 56836.173 of the Education Code.

(ib) Except as otherwise provided by sub-subclause (ia), property tax revenues described in subclause (I) shall not be apportioned to special education programs funded pursuant to Section 56836.173 of the Education Code.

(III) If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of subclauses (I) and (II), the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(IV) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to Section 56836.173 of the Education Code or any predecessor to that section for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the beginning of the 2007–08 fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section

97.3 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts

allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 574. Section 19528 of the Revenue and Taxation Code is amended to read:

19528. (a) Notwithstanding any other provision of law, the Franchise Tax Board may require any board, as defined in Section 22 of the Business and Professions Code, and the State Bar, the

~~Department of Real Estate~~ *Bureau of Real Estate*, and the Insurance Commissioner (hereinafter referred to as licensing board) to provide to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number (if the entity is a partnership) or social security number (for all others).

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or renewal.

(b) The Franchise Tax Board may do the following:

(1) Send a notice to any licensee failing to provide the identification number or social security number as required by subdivision (a) of Section 30 of the Business and Professions Code and subdivision (a) of Section 1666.5 of the Insurance Code, describing the information that was missing, the penalty associated with not providing it, and that failure to provide the information within 30 days will result in the assessment of the penalty.

(2) After 30 days following the issuance of the notice described in paragraph (1), assess a one hundred dollar ($100) penalty, due and payable upon notice and demand, for any licensee failing to provide either its federal employer identification number (if the licensee is a partnership) or his or her social security number (for all others) as required in Section 30 of the Business and Professions Code and Section 1666.5 of the Insurance Code.

(c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished to the Franchise Tax Board pursuant to Section 30 of the Business and Professions Code or Section 1666.5 of the Insurance Code shall not be deemed to be a public record and shall not be open to the public for inspection.

SEC. 575. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. The ~~California~~ *Department of* Technology ~~Agency~~ shall determine annually, on or before October 1, a surcharge rate that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by

dividing the costs (including incremental costs) the ~~California~~ *Department of* Technology ~~Agency~~ estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communications services and VoIP service to which the surcharge will apply for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall such surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

SEC. 576. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. The ~~California~~ *Department of* Technology ~~Agency~~ shall make its determination of the surcharge rate each year no later than October 1 and shall notify the board of the new rate, which shall be fixed by the board to be effective with respect to charges made for intrastate telephone communication services and VoIP service on or after January 1 of the next succeeding calendar year.

SEC. 577. Section 41032 of the Revenue and Taxation Code is amended to read:

41032. Immediately upon notification by the ~~California~~ *Department of* Technology ~~Agency~~ and fixing the surcharge rate, the board shall each year no later than November 15 publish in its minutes the new rate, and it shall notify by mail every service supplier registered with it of the new rate.

SEC. 578. Section 41136.1 of the Revenue and Taxation Code is amended to read:

41136.1. For each fiscal year, moneys in the State Emergency Telephone Number Account not appropriated for a purpose specified in Section 41136 shall be held in trust for future appropriation for upcoming, planned "911" emergency telephone number projects that have been approved by the ~~California~~ *Department of* Technology ~~Agency~~, even if the projects have not yet commenced.

SEC. 579. Section 41137 of the Revenue and Taxation Code is amended to read:

41137. The ~~California~~ *Department of* Technology ~~Agency~~ shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138,

bills submitted by service suppliers or communications equipment companies for the installation and ongoing costs of the following communication services provided local agencies by service suppliers in connection with the "911" emergency telephone number system:

(a) A basic system.

(b) A basic system with telephone central office identification.

(c) A system employing automatic call routing.

(d) Approved incremental costs that have been concurred in by the ~~California~~ *Department of* Technology ~~Agency~~.

SEC. 580. Section 41137.1 of the Revenue and Taxation Code is amended to read:

41137.1. The ~~California~~ *Department of* Technology ~~Agency~~ shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138, claims submitted by local agencies for approved incremental costs and for the cost of preparation of final plans submitted to the ~~California~~ *Department of* Technology ~~Agency~~ for approval on or before October 1, 1978, as provided in Section 53115 of the Government Code.

SEC. 581. Section 41138 of the Revenue and Taxation Code is amended to read:

41138. (a) It is the intent of the Legislature that the reimbursement rates for "911" emergency telephone number equipment shall not exceed specified amounts negotiated with each interested supplier and approved by the ~~California~~ *Department of* Technology ~~Agency~~. The ~~California Technology Agency~~ *department* shall negotiate supplier pricing to ensure cost effectiveness and the best value for the "911" emergency telephone number system. The ~~California Technology Agency~~ *department* shall pay those bills as provided in Section 41137 only under the following conditions:

(1) The ~~California Technology Agency~~ *department* shall have received the local agency's "911" emergency telephone number system plan by July 1 of the prior fiscal year and approved the plan by October 1 of the prior fiscal year.

(2) The Legislature has appropriated in the Budget Bill an amount sufficient to pay those bills.

(3) The ~~California Technology Agency~~ *department* has reviewed and approved each line item of a request for funding to ensure the

necessity of the proposed equipment or services and the eligibility for reimbursement.

(4) The amounts to be paid do not exceed the pricing submitted by the supplier and approved by the ~~California Technology Agency~~ *department*. Extraordinary circumstances may warrant spending in excess of the established rate, but shall be preapproved by the ~~California Technology Agency~~ *department*. In determining the reimbursement rate, the ~~California Technology Agency~~ *department* shall utilize the approved pricing submitted by the supplier providing the equipment or service.

(b) Nothing in this section shall be construed to limit an agency's ability to select a supplier or procure telecommunications equipment as long as the supplier's pricing is preapproved by the ~~California~~ *Department of* Technology ~~Agency~~. Agencies shall be encouraged to procure equipment on a competitive basis. Any amount in excess of the pricing approved by the ~~California Technology Agency~~ *department* shall not be reimbursed.

SEC. 582. Section 41139 of the Revenue and Taxation Code is amended to read:

41139. From funds appropriated by the Legislature from the Emergency Telephone Number Account, the ~~California~~ *Department of* Technology ~~Agency~~ shall begin paying bills as provided in Sections 41137, 41137.1, and 41138 in the 1977–78 fiscal year for plans submitted by local agencies by July 1, 1976, to the ~~California Technology Agency which~~ *department that* the ~~California Technology Agency~~ *department* has approved.

SEC. 583. Section 41140 of the Revenue and Taxation Code is amended to read:

41140. The ~~California~~ *Department of* Technology ~~Agency~~ shall reimburse local agencies, from funds appropriated from the Emergency Telephone Number Account by the Legislature, for amounts not previously compensated for by another governmental agency, which have been paid by agencies for approved incremental costs or to service suppliers or communication equipment companies for the following communications services supplied in connection with the "911" emergency telephone number, provided local agency plans had been approved by the ~~California Technology Agency~~ *department*:

(a) A basic system.

(b) A basic system with telephone central office identification.

(c) A system employing automatic call routing.

(d) Approved incremental costs.

SEC. 584. Section 41141 of the Revenue and Taxation Code is amended to read:

41141. Claims for reimbursement shall be submitted by local agencies to the ~~California~~ *Department of* Technology ~~Agency~~, which shall determine payment eligibility and shall reduce the claim for charges that exceed the approved incremental costs, approved contract amounts, or the established tariff rates for costs. No claim shall be paid until funds are appropriated by the Legislature.

SEC. 585. Section 41142 of the Revenue and Taxation Code is amended to read:

41142. Notwithstanding any other provision of this article, if the Legislature fails to appropriate an amount sufficient to pay bills submitted to the ~~California~~ *Department of* Technology ~~Agency~~ by service suppliers or communications equipment companies for the installation and ongoing communications services supplied local agencies in connection with the "911" emergency telephone number system, and to pay claims of local agencies which, prior to the effective date of this part, paid amounts to service suppliers or communications equipment companies for the installation and ongoing expenses in connection with the "911" emergency telephone number system, the obligation of service suppliers and local agencies to provide "911" emergency telephone service shall terminate and service shall not again be required until the Legislature has appropriated an amount sufficient to pay those bills or claims. Nothing in this part shall preclude local agencies from purchasing or acquiring any communication equipment from companies other than the telephone service suppliers.

SEC. 586. Section 22.5 is added to the Streets and Highways Code, to read:

22.5. Whenever the term "Business, Transportation and Housing Agency" appears within the Streets and Highways Code, it shall refer to the Transportation Agency, and whenever the term "Secretary of Business, Transportation and Housing" appears within the Streets and Highways Code, it shall refer to the Secretary of Transportation.

SEC. 587. Section 165 of the Vehicle Code is amended to read:

165. An authorized emergency vehicle is:

(a) Any publicly owned and operated ambulance, lifeguard, or lifesaving equipment or any privately owned or operated ambulance licensed by the Commissioner of the California Highway Patrol to operate in response to emergency calls.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency, department, or district employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by those officers in the performance of their duties.

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue, or communications calls and operated either by the ~~California Emergency Management Agency~~ *Office of Emergency Services* or by any public agency or industrial fire department to which the ~~California Emergency Management Agency~~ *Office of Emergency Services* has assigned the vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when the vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC. 588. Section 1500 of the Vehicle Code is amended to read:

1500. *(a)* There is in the ~~Business, Transportation and Housing~~ *Transportation* Agency the Department of Motor Vehicles.

(b) Whenever the term "Business, Transportation and Housing Agency" appears within the Vehicle Code, it shall refer to the Transportation Agency, and whenever the term "Secretary of Business, Transportation and Housing" appears within the Vehicle Code, it shall refer to the Secretary of Transportation.

SEC. 589. Section 1505 of the Vehicle Code is amended to read:

1505. The director, with the approval of the Governor and the Secretary of ~~the Business,~~ Transportation ~~and Housing Agency~~, shall organize the department in ~~such~~ *a* manner ~~as~~ *that* he or she may deem necessary to conduct the work of the department.

SEC. 590. Section 1808.51 of the Vehicle Code is amended to read:

1808.51. Notwithstanding Sections 1808.5 and 12800.5, both of the following may obtain copies of fullface engraved pictures or photographs of individuals directly from the department:

(a) The ~~Department of Real Estate~~ *Bureau of Real Estate*, as a department, individually, or through its staff, for purposes of enforcing the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code).

(b) The city attorney of a city and county and his or her investigators for purposes of performing functions related to city and county operations.

SEC. 591. Section 2100 of the Vehicle Code is amended to read:

2100. There is in the ~~Business, Transportation and Housing~~ *Transportation* Agency the Department of the California Highway Patrol.

SEC. 592. Section 2109 of the Vehicle Code is amended to read:

2109. The commissioner shall organize the department with the approval of the Governor and the Secretary of ~~the Business,~~ Transportation ~~and Housing Agency~~ and may arrange and classify the work of the department and may, with the approval of the Governor and the Secretary of ~~the Business,~~ Transportation ~~and Housing Agency~~, create or abolish divisions thereof.

SEC. 593. Section 2901 of the Vehicle Code is amended to read:

2901. The Governor may appoint a highway safety representative who shall serve in the ~~Business, Transportation and Housing~~ *Transportation* Agency and who shall, in consultation with the Governor and Secretary of ~~the Business, Transportation and Housing Agency~~ *Transportation*, prepare the California Traffic Safety Program. The Governor is responsible for the administration

of the program, and has final approval of all phases of the program, and may take all action necessary to secure the full benefits available to the program under the Federal Highway Safety Act of 1966, and any amendments thereto. The highway safety representative serves at the pleasure of the secretary.

SEC. 594. Section 2902 of the Vehicle Code is amended to read:

2902. To the maximum extent permitted by federal law and regulations and the laws of this state, the Governor may delegate to the Secretary of ~~the Business and~~ Transportation ~~Agency~~ and the highway safety representative ~~any power or~~ *the* authority necessary to administer the program, and the secretary and the representative may exercise ~~such power or~~ *this* authority once delegated.

SEC. 595. Section 5066 of the Vehicle Code is amended to read:

5066. (a) The department, in conjunction with the California Highway Patrol, shall design and make available for issuance pursuant to this article the California memorial license plate. Notwithstanding Section 5060, the California memorial license plate may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. A person described in Section 5101, upon payment of the additional fees set forth in subdivision (b), may apply for and be issued a set of California memorial license plates.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees required pursuant to Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).

(c) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:

(1) Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund.

(A) Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the ~~California Emergency Management Agency~~ *Office of Emergency Services* to be used solely for antiterrorism activities. The ~~agency~~ *office* shall not use more than 5 percent of the money appropriated to it for administrative purposes.

(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.

(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Money deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.

(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program. The department may utilize an amount of money, not to exceed fifty thousand dollars ($50,000) annually, derived from the issuance, renewal, transfer, and substitution of California memorial license plates for the continued promotion of the California memorial license plate program of this section.

(e) For the purposes of this section, “antiterrorism activities” means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

SEC. 596. Section 9706 of the Vehicle Code is amended to read:

9706. (a) Application for partial year registration in conjunction with an application for original California registration shall be made by the owner within 20 days of the date the vehicle first becomes subject to California registration. Any application for partial year registration submitted after that 20-day period shall be denied registration for a partial year, and the vehicle shall be subject to payment of the fees for the entire registration year. In addition to the fee for the registration year, a penalty, as specified in Section 9554, shall be added to the fee for registration.

(b) Any application to renew registration for a part of the remainder of the registration year or for the entire remainder of the registration year shall be made prior to midnight of the expiration date of the last issued registration certificate. Application shall be made upon presentation of the last issued registration card or of a potential registration issued by the department for use at the time of renewal and by payment of the required partial year fees, or, if renewal is for the remainder of the registration year, by payment of the annual fee required by Section 9400 or 9400.1, as reduced pursuant to Section 9407.

(c) Notwithstanding any other provision of law, an owner who registers a vehicle pursuant to this article during a calendar year shall, if the vehicle was not operated, moved, or left standing upon a highway, file a certificate of nonoperation prior to the date of the first operation of the vehicle on the highways in a manner which requires that registration and shall, by December 31 of each calendar year thereafter, file a certification pursuant to subdivisions (a) and (b) of Section 4604 when the vehicle is not registered for operation on the highways for the succeeding calendar year.

(d) Notwithstanding subdivision (c), the owner of any vehicle being moved or operated for the purpose of providing support to firefighting operations while the vehicle or owner is under contract to the United States Forestry Service, the United States Department of the Interior, the Bureau of Land Management, the Department

of Forestry and Fire Protection, or the ~~California Emergency Management Agency~~ *Office of Emergency Services* may obtain partial year registration if application is made within 20 days of the date the vehicle is first operated, moved, or left standing on the highway and the owner has obtained a letter of authorization from the department prior to the date that the vehicle is first operated, moved, or left standing on the highway.

SEC. 597. Section 23112.5 of the Vehicle Code is amended to read:

23112.5. (a) Any person who dumps, spills, or causes the release of hazardous material, as defined by Section 353, or hazardous waste, as defined by Section 25117 of the Health and Safety Code, upon any highway shall notify the Department of the California Highway Patrol or the agency having traffic jurisdiction for that highway of the dump, spill, or release, as soon as the person has knowledge of the dump, spill, or release and notification is possible. Upon receiving notification pursuant to this section, the Department of the California Highway Patrol shall, as soon as possible, notify the ~~California Emergency Management Agency~~ *Office of Emergency Services* of the dump, spill, or release, except for petroleum spills of less than 42 gallons from vehicular fuel tanks.

(b) Any person who is convicted of a violation of this section shall be punished by a mandatory fine of not less than two thousand dollars ($2,000).

SEC. 598. Section 34061 of the Vehicle Code is amended to read:

34061. The department shall compile data and annually publish a report relating to the level of cargo tank and hazardous waste transport vehicle and container inspections conducted during the previous year. The data included in the report shall include, but need not be limited to, all of the following:

(a) The number of inspections conducted.

(b) The number of violations recorded.

(c) The number of on-highway incidents involving cargo tanks and hazardous waste transport vehicles and containers that were reported to the ~~California Emergency Management Agency~~ *Office of Emergency Services* under Section 8574.17 of the Government Code.

SEC. 599. Section 128 of the Water Code is amended to read:

128. (a) In times of extraordinary stress and of disaster, resulting from storms and floods, or where damage to watershed lands by forest fires has created an imminent threat of floods and damage by water, mud, or debris upon the occurrence of storms, the department may perform any work required or take any remedial measures necessary to avert, alleviate, repair, or restore damage or destruction to property having a general public and state interest and to protect the health, safety, convenience, and welfare of the general public of the state. In carrying out that work, the department may perform the work itself or through or in cooperation with any other state department or agency, the federal government, or any political subdivision, city, or district.

(b) This section is intended to supplement the emergency services of the state, and nothing in this section overrides or supersedes the authority of the ~~Secretary of Emergency Management~~ *Director of Emergency Services* to coordinate and supervise state action, upon a declaration of a state of emergency, under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of that division).

SEC. 600. Section 6025.6 of the Water Code is amended to read:

6025.6. (a) An owner of a structure defined as a dam pursuant to Section 6002, but excluded from that definition pursuant to subdivision (d) of Section 6004 or otherwise exempted from the requirements of this chapter pursuant to Section 6025.5, shall comply with the requirements of Section 8589.5 of the Government Code and shall employ a civil engineer who is registered in the state to supervise the structure for the protection of life and property for the full operating life of the structure.

(b) (1) The civil engineer supervising a dam pursuant to subdivision (a) shall take into consideration, in determining whether or not a dam constitutes, or would constitute, a danger to life or property, the possibility that the dam might be endangered by seepage, earth movement, or other conditions that exist, or might occur, in any area in the vicinity of the dam.

(2) If the civil engineer determines that a dam under his or her supervision constitutes, or would constitute, a danger to life or

property, the civil engineer shall notify the owner of the dam and recommend appropriate action.

(c) The owner shall submit to the department the name, business address, and telephone number of each supervising civil engineer.

(d) The department shall submit the information provided pursuant to subdivision (c) to the ~~California Emergency Management Agency~~ *Office of Emergency Services* on or before January 1, 1995, and on or before each January 1 thereafter. Any change in the information shall be submitted to the department on or before July 1 of each year.

SEC. 601. Section 11910 of the Water Code is amended to read:

11910. There shall be incorporated in the planning and construction of each project those features (including, but not limited to, additional storage capacity) that the department, after giving full consideration to any recommendations which may be made by the Department of Fish and Game, the Department of Parks and Recreation, ~~the Department of Boating and Waterways,~~ any federal agency, and any local governmental agency with jurisdiction over the area involved, determines necessary or desirable for the preservation of fish and wildlife, and necessary or desirable to permit, on a year-round basis, full utilization of the project for the enhancement of fish and wildlife and for recreational purposes to the extent that those features are consistent with other uses of the project, if any. It is the intent of the Legislature that there shall be full and close coordination of all planning for the preservation and enhancement of fish and wildlife and for recreation in connection with state water projects by and between the Department of Water Resources, the Department of Parks and Recreation, ~~the Department of Boating and Waterways,~~ the Department of Fish and ~~Game~~ *Wildlife*, and all appropriate federal and local agencies.

SEC. 602. Section 11910.1 of the Water Code is amended to read:

11910.1. In furtherance of the policies specified in Section 11910, the Department of Fish and ~~Game~~ *Wildlife*, the Department of Parks and Recreation, ~~the Department of Boating and Waterways,~~ and other governmental agencies shall submit their recommendations or comments on reconnaissance studies or feasibility reports of the Department of Water Resources relating

to any project or feature of a project within 60 days following receipt of a formal request for review from the Department of Water Resources.

SEC. 603. Section 12994 of the Water Code is amended to read:

12994. (a) The Legislature finds and declares all of the following:

(1) The CALFED Bay-Delta Program has identified as a core action the need for emergency levee management planning for delta levees to improve system reliability.

(2) Even with active levee maintenance, the threat of delta levee failures from earthquake, flood, or poor levee foundation, will continue to exist.

(3) Because of this threat of failure, and the potential need to mobilize people and equipment in an emergency to protect delta levees and public benefits, the department needs authority that will enable it to act quickly.

(b) The department may do all of the following:

(1) In an emergency, as defined by Section 21060.3 of the Public Resources Code, that requires immediate levee work to protect public benefits in the delta, the department may use funds pursuant to this part without prior approval of a plan by the board or the Department of Fish and ~~Game~~ *Wildlife*, in which case the requirements of Sections 12314 and 12987, and the memorandum of understanding pursuant to Section 12307, shall be carried out as soon as possible.

(A) The amount of funds that may be expended each year on emergency levee work under this section shall not be greater than two hundred thousand dollars ($200,000) and the amount that may be expended per emergency levee site shall not be greater than fifty thousand dollars ($50,000). The local agency shall fund 25 percent of the total costs of the emergency repair at a site or shall fund an appropriate share of the costs as approved by the board and based upon information of the local agency's ability to pay for the repairs.

(B) Department contracts executed for emergency levee work under this section shall be exempted from Department of General Services approval required under the Public Contract Code.

(C) As soon as feasible after the emergency repair, the department shall submit a report to the board describing the levee

work, costs incurred, and plans for future work at the site, including any necessary mitigation.

(D) This section is intended to supplement emergency services provided by the state or the United States. Nothing in this section overrides or supersedes the authority of the ~~Secretary of Emergency Management~~ *Director of Emergency Services* under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 2 of the Government Code).

(2) Prepare and submit to the board for adoption a delta emergency response plan for levee failures. The plan is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The plan may include recommendations of the multiagency response team established pursuant to paragraph (3) and may include, but not be limited to, the following:

(A) Standardized contracts for emergency levee work to be executed by the department, local agencies, or other appropriate entities.

(B) Criteria for eligible emergency levee work.

(C) Definition of an emergency levee site.

(D) Documentation requirements.

(E) Proposals for complying with the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) in an emergency.

(F) Stages of emergency response that may occur in various situations.

(3) Establish a multiagency emergency response team, consisting of representatives from the department, the board, the Department of Fish and ~~Game~~ *Wildlife*, the California Conservation Corps, the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the Federal Emergency Management Agency, the United States Army Corps of Engineers, and the United States Fish and Wildlife Service to advise on methods to ensure that levee emergencies will be resolved as quickly and safely as possible.

SEC. 604. Section 13271 of the Water Code is amended to read:

13271. (a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (A) that person has knowledge of the discharge, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the ~~California Emergency Management Agency~~ *Office of Emergency Services* of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(2) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall immediately notify the appropriate regional board, the local health officer, and the director of environmental health of the discharge. The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to this section, the local health officer and the director of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and the director of environmental health shall immediately notify the public of the discharge by posting notices or other appropriate means. The notification shall describe measures to be taken by the public to protect the public health.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars ($20,000) or imprisonment in a county jail for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any

person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to groundwater or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) shall be in effect for purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

(f) (1) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to groundwater or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, “sewage” means the effluent of a municipal wastewater treatment plant or a private utility wastewater treatment plant, as those terms are defined in Section 13625, except that sewage does not include recycled water, as defined in subdivisions (c) and (d) of Section 13529.2.

(2) A collection system owner or operator, as defined in paragraph (1) of subdivision (a) of Section 13193, in addition to

the reporting requirements set forth in this section, shall submit a report pursuant to subdivision (c) of Section 13193.

(g) Except as otherwise provided in this section and Section 8589.7 of the Government Code, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the person shall include all of the notification information required in the permit.

(h) For the purposes of this section, the reportable quantity for perchlorate shall be 10 pounds or more by discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted pursuant to subdivision (e).

(i) Notification under this section does not nullify a person's responsibility to notify the local health officer or the director of environmental health pursuant to Section 5411.5 of the Health and Safety Code.

SEC. 605. Section 13272 of the Water Code is amended to read:

13272. (a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the ~~California Emergency Management Agency~~ *Office of Emergency Services* of the discharge in accordance with the spill reporting provision of the California oil spill contingency plan adopted pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code. This section shall not apply to spills of oil into marine waters as defined in subdivision (f) of Section 8670.3 of the Government Code.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine

of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for each day of failure to notify, or imprisonment of not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state. This subdivision shall not apply to any person who is fined by the federal government for a failure to report a discharge of oil.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) Immediate notification to the appropriate regional board of the discharge, in accordance with reporting requirements set under Section 13267 or 13383, shall constitute compliance with the requirements of subdivision (a).

(f) The reportable quantity for oil or petroleum products shall be one barrel (42 gallons) or more, by direct discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted.

SEC. 606. Section 79522 of the Water Code is amended to read:

79522. (a) Funds made available pursuant to Section 79520 shall be appropriated to the State Department of *Public* Health ~~Services~~ to carry out this chapter consistent with the requirements and for the purposes specified in Section 79520.

(b) In the development of priorities for expenditure of the funds appropriated for the purposes of this section, the State Department of *Public* Health ~~Services~~ shall consult with the ~~California Emergency Management Agency, the state Office of Homeland Security,~~ *Office of Emergency Services* and local water agencies to develop criteria for the department's programs.

(c) Funds allocated pursuant to this section shall not be available for grants that reimburse project costs incurred prior to the adoption of criteria for the grants provided in this section.

(d) No grant funds may be awarded to supplant funding for the routine responsibilities or obligations of any state, local, or regional drinking water system.

SEC. 607. Section 1789 of the Welfare and Institutions Code is amended to read:

1789. (a) A Runaway Youth and Families in Crisis Project shall be established in one or more counties in the San Joaquin Central Valley, in one or more counties in the northern region of California, and in one or more counties in the southern region of California. Each project may have one central location, or more than one site, in order to effectively serve the target population.

(b) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall prepare and disseminate a request for proposals to prospective grantees under this chapter within four months after this chapter has been approved and enacted by the Legislature. The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall enter into grant award agreements for a period of no less than three years, and the operation of projects shall begin no later than four months after grant award agreements are entered into between the agency and the grantee. Grants shall be awarded based on the quality of the proposal, the documented need for services in regard to runaway youth, and to organizations, as specified in subdivision (d) of this section, in localities that receive a disproportionately low share of existing federal and state support for youth shelter programs.

(c) The ~~California Emergency Management Agency~~ *Office of Emergency Services* shall require applicants to identify, in their applications, measurable outcomes by which the agency will measure the success of the applicant's project. These measurable outcomes shall include, but not be limited to, the number of clients served and the percentage of clients who are successfully returned to the home of a parent or guardian or to an alternate living condition when reunification is not possible.

(d) Only private, nonprofit organizations shall be eligible to apply for funds under this chapter to operate a Runaway Youth and Families in Crisis Project, and these organizations shall be required to annually contribute a local match of at least 15 percent in cash or in-kind contribution to the project during the term of the grant award agreement. Preference shall be given to organizations that demonstrate a record of providing effective services to runaway youth or families in crisis for at least three years, successfully operating a youth shelter for runaway and homeless youth, or successfully operating a transitional living

facility for runaway and homeless youth who do not receive transitional living services through the juvenile justice system. Additional weight shall also be given to those organizations that demonstrate a history of collaborating with other agencies and individuals in providing such services. Priority shall be given to organizations with existing facilities. Preference shall also be given to organizations that demonstrate the ability to progressively decrease their reliance on resources provided under this chapter and to operate this project beyond the period that the organization receives funds under this chapter.

SEC. 608. Section 9101 of the Welfare and Institutions Code is amended to read:

9101. (a) The department shall consist of a director, and any staff as may be necessary for proper administration.

(b) The department shall maintain its main office in Sacramento.

(c) The Governor, with the consent of the Senate, shall appoint the director. The Governor shall consider, but not be limited to, recommendations from the commission.

(d) The director shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The director shall do all of the following:

(1) Be responsible for the management of the department and achievement of its statewide goals.

(2) Assist the commission in carrying out its mandated duties and responsibilities in accordance with Section 9202.

(f) The Secretary of California Health and Human Services shall ensure effective coordination among departments of the agency in carrying out the mandates of this division. For this purpose, the secretary shall regularly convene meetings concerning services to older individuals that shall include, but not be limited to, the State Department of Health Care Services, the State Department of Social Services, the State Department of Public Health, and the department.

(g) The Secretary of California Health and Human Services shall also encourage other state ~~departments~~ *entities* that have other programs for older individuals to actively participate in periodic

joint meetings for the joint purpose of coordinating service activities. These ~~departments~~ *entities* shall include, but ~~are~~ not *be* limited to, the Department of Housing and Community Development ~~and the Department of Transportation in the Business, Transportation and Housing Agency~~, the Department of Parks and Recreation in the Natural Resources Agency, *the Transportation Agency,* the California Arts Council, and the Department of Veterans Affairs.

SEC. 609. Section 9625 of the Welfare and Institutions Code is amended to read:

9625. (a) No later than June 30, 2007, each multipurpose senior center and each senior center, as defined in subdivisions (j) and (n) of Section 9591, shall develop and maintain a written emergency operations plan. This emergency operations plan shall include, but not be limited to, all of the following:

(1) Facility preparation procedures to identify the location of first aid supplies, secure all furniture, appliances, and other free-standing objects, and provide instructions for operating gas and water shutoff valves.

(2) An inventory of neighborhood resources that shall include, but not be limited to, the identification and location of all the following nearby resources:

(A) Generators.

(B) Telephones.

(C) Hospitals and public health clinics.

(D) Fire stations and police stations.

(3) Evacuation procedures, including procedures to accommodate those who will need assistance in evacuating the center. This evacuation plan shall be located in an area that is accessible to the public.

(4) Procedures to accommodate seniors, people with disabilities, and other community members in need of shelter at the senior center, in the event that other community facilities are inoperable.

(5) Personnel resources necessary for postdisaster response.

(6) Procedures for conducting periodic evacuation drills, fire drills, and earthquake drills.

(7) Procedures to ensure service continuation after a disaster.

(8) Consideration of cultural and linguistic barriers in emergency and evacuation plans, and ways to appropriately address those barriers.

(b) In the development of the emergency operations plans required by this chapter, multipurpose senior centers and senior centers shall coordinate with the ~~California Emergency Management Agency~~ *Office of Emergency Services*, the local area agency on aging, as defined in Section 9006, and other relevant agencies and stakeholders.

SEC. 610. Section 14085.54 of the Welfare and Institutions Code is amended to read:

14085.54. (a) The Los Angeles County University of Southern California (LAC-USC) Medical Center may submit revised final plans to the Office of Statewide Health Planning and Development to replace the original capital expenditure project plans that met the initial eligibility requirements provided for under Section 14085.5 if all of the following conditions are met:

(1) The revised capital expenditure project meets all other requirements for eligibility as specified in Section 14085.5.

(2) The revised plans are submitted to the Office of Statewide Health Planning and Development on or before December 31, 2002, except that, with respect to a facility in the San Gabriel Valley of not less than 80 beds, the revised plans may be submitted not later than December 31, 2003.

(3) The scope of the capital project shall consist of two facilities with not less than a total of 680 beds.

(b) Funding under Section 14085.5 shall not be provided unless all of the conditions specified in subdivision (a) are met.

(c) The revised plans for the LAC-USC Medical Center capital expenditure project may provide for one or more of the following variations from the original capital expenditure project plan submission:

(1) Total revisions or reconfigurations, or reductions in size and scope.

(2) Reduction in, or modification of, some or all inpatient project components.

(3) Tenant interior improvements not specified in the original capital expenditure project plan submission.

(4) Modifications to the foundation, structural frame, and building exterior shell, commonly known as the shell and core.

(5) Modifications necessary to comply with current seismic safety standards.

(6) Expansion of outpatient service facilities that operate under the LAC-USC Medical Center license.

(d) The revised capital expenditure project may provide for an additional inpatient service site to the current LAC-USC Medical Center only if the additional inpatient service site meets both of the following criteria:

(1) The San Gabriel Valley site is owned and operated by the County of Los Angeles.

(2) The San Gabriel Valley site is consolidated under the LAC-USC Medical Center license.

(e) (1) Supplemental reimbursement for the revised capital expenditure project for LAC-USC Medical Center, as described in this section, shall be calculated pursuant to subdivision (c) of Section 14085.5, as authorized and limited by this section. The initial Medi-Cal inpatient utilization rate for the LAC-USC Medical Center, for purposes of calculating the supplemental reimbursement, shall be that which was established at the point of the original capital expenditure project plan submission. The revised capital expenditure project costs, including project costs related to the additional inpatient service site, eligible for supplemental reimbursement under this section shall not exceed 85 percent of the project costs, including all eligible construction, architectural and engineering, design, management and consultant costs that would have qualified for supplemental reimbursement under the original capital project. The Legislature finds that the original qualifying amount was one billion two hundred sixty-nine million seven hundred thirty-five thousand dollars ($1,269,735,000).

(2) Notwithstanding any other provision of this section, any portion of the revised capital expenditure project for which the County of Los Angeles is reimbursed by the Federal Emergency Management Agency and the ~~California Emergency Management Agency~~ *Office of Emergency Services* shall not be considered eligible project costs for purposes of determining supplemental reimbursement under Section 14085.5.

(3) The department shall seek a Medicaid state plan amendment in order to maximize federal financial participation. However, if the department is unable to obtain federal financial participation at the Medi-Cal inpatient adjustment rate as described in paragraph (1), the state shall fully fund any amount that would otherwise be

funded under this section, but for which federal financial participation cannot be obtained.

(f) The LAC-USC Medical Center shall provide written notification to the department of the status of the project on or before January 1 of each year, commencing January 1, 2002. This notification shall, at a minimum, include a narrative description of the project, identification of services to be provided, documentation substantiating service needs, projected construction timeframes, and total estimated revised capital project costs.

(g) The project, if eligible under the criteria set forth in this section and Section 14085.5, shall commence construction at both facilities referred to in subdivision (a) on or before January 1, 2004.

(h) In addition to the requirements of subdivision (f), the project shall be licensed for operation and available for occupancy on or before January 1, 2009.

(i) On or before August 15, 2001, the County of Los Angeles may withdraw any revised final plans that are submitted pursuant to this section prior to that date if the Board of Supervisors of Los Angeles County finds that insufficient funds are available to carry out the capital expenditure project described in this section.

SEC. 611. Section 18275.5 of the Welfare and Institutions Code is amended to read:

18275.5. Unless the context requires otherwise, for purposes of this chapter:

(a) ~~"Agency"~~ *"Director"* means the ~~California Emergency Management Agency~~ *Director of Emergency Services*.

(b) ~~"Secretary"~~ *"Office"* means the ~~Secretary of Emergency Management~~ *Office of Emergency Services*.

SEC. 612. Section 18277 of the Welfare and Institutions Code is amended to read:

18277. The ~~secretary~~ *director* shall select two child sexual abuse prevention training centers, one in northern California and the other in southern California, which shall receive state funds pursuant to this chapter. The ~~secretary~~ *director* shall give consideration to existing demonstration programs relating to the prevention of sexual abuse of children and may award grant awards on a sole source basis to the two training centers which he or she selects for funding. The ~~agency~~ *office* shall appraise the

performance of the training centers on an annual basis and determine whether they shall receive continuation grants.

SEC. 613. Section 18278 of the Welfare and Institutions Code is amended to read:

18278. (a) The ~~agency~~ *office* shall make grants to community nonprofit child sexual abuse treatment programs that are unable to meet the current demand for their services, pursuant to this section.

(b) Programs seeking these grants shall apply to the Office of Criminal Justice Planning in the manner prescribed by the ~~office~~ *Office of Criminal Justice*. Each award shall be limited to twenty-five thousand dollars ($25,000). Programs shall be selected based, at a minimum, on the following criteria:

(1) The program's inability to meet the public demand for its services.

(2) The program's use of the award to maximize the services provided to clients who would not otherwise be served.

(3) The likelihood that the program will be able to maintain the new level of service after the funds granted are depleted.

The awards shall be equitably distributed to programs in northern and southern California. At least one-fourth of the funds shall be distributed to rural programs.

(c) The ~~agency~~ *office* shall fund programs as expeditiously as possible; program funding shall commence within 90 days after the effective date of this chapter.

SEC. 614. Section 18278.5 of the Welfare and Institutions Code is amended to read:

18278.5. The ~~agency~~ *office* shall enter into contracts with the centers for the provision of services required by this chapter within four months of the effective date of this chapter.

SEC. 615. This act shall become operative on July 1, 2013, except that Sections 57 and 58 of this act, amending Sections 5240 and 5400 of the Civil Code, respectively, shall become operative on January 1, 2014.

SEC. 616. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To allow the statutes to reflect the changes in law operative on July 1, 2013, as a result of the effectiveness of the Governor's

Reorganization Plan No. 2, it is necessary that this act take effect immediately.

~~SECTION 1. It is the intent of the Legislature to enact legislation to codify the provisions of the Governor's Reorganization Plan No. 2 of 2012 and make technical conforming changes.~~

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