

ASSEMBLY BILL

No. 3470

**Introduced by Committee on Judiciary (Assembly Members
Morrow (Chairman), Alby, Battin, Baugh, Bowen,
Goldsmith, House, Kaloogian, Knight, Knowles, Machado,
and Mazzoni)**

March 4, 1996

An act to amend Sections 650.4, 2725, 12240, 23057, 23104.1, and 25662 of the Business and Professions Code, to amend Sections 2079.12, 2945.11, 2983.2, 3319, 3320, and 3321 of the Civil Code, to amend Section 1991.1 of, to amend and renumber Sections 107.65 and 708.750 of, and to repeal the heading of Part 3.5 (commencing with former Section 1823) of, the Code of Civil Procedure, to amend Section 9501 of the Commercial Code, to amend Sections 15320, 19336, 48664, 58552, 58751, 60242, and 84751 of, and to repeal the heading of Chapter 15 (commencing with Section 11400) of Part 7 of, the Education Code, to amend Sections 8051.2 and 8280.5 of the Fish and Game Code, to amend Section 24014 of the Food and Agricultural Code, to amend Sections 6518, 8546, 8879.13, 8880.68, 11354.1, 11504, 12805, 15399.22, 19853.1, 19854, 29530.5, 50022.5, 53069.8, 69911, and 73665.5 of, to amend and renumber Sections 6599, 6599.1, and 12173 of, and to amend and renumber the heading of Title 7.91 (commencing with Section 67910), Title 7.92 (commencing with Section 67920), and Title 7.93 (commencing with Section 67930) of, the Government Code, to amend Sections 1597.15, 1771, 1779, 1779.4, 11837.9, 18062.8, 18080.9, 25158.4, 25198, 25201.1, 25218.11, 41503.6, 44017, 44085, and 44220 of, to amend and

renumber Sections 1250.9, 18965, 18966, 18967, 18968, 18969, 18970, 18971, 27622.5, and 27623 of, to add the heading of Chapter 7 (commencing with Section 18949.25) to Part 2.5 of Division 13 of, and to repeal the heading of Chapter 7 (commencing with Section 18965) of Part 2.5 of Division 13 of, the Health and Safety Code, to amend Sections 10082, 10083, 10089.40, 10089.7, 10603, 10604, and 12376 of, and to amend and renumber Section 10089.7 of, the Insurance Code, to amend Section 626.10 of, and to amend and renumber Section 11113 of, the Penal Code, to amend Sections 4551.3 and 30514 of, and to repeal Section 21083.8 of, the Public Resources Code, to amend Section 2889.5 of, and to amend and renumber Sections 739.3 and 5387.5 of, the Public Utilities Code, to amend Section 75.60, 214, 2503.2, 2611.6, 3698.5, 3698.7, 6202.5, 6359, 17233, 17266, 23051.5, 23622, 24356.4, 24385, 60706.1, and 60707.1 of, and to amend the heading of Chapter 2.92 (commencing with Section 7286.50) of Part 1.7 of Division 2 of, the Revenue and Taxation Code, to amend Sections 10218.5 and 15037.1 of the Unemployment Insurance Code, to amend Sections 415, 672, 1656.2, 1675, 1810, 4655, 5011.5, 5070, 8200, 9252, 11216.2, 13378, 17302, 21114.5, 21663, 22507.9, 22512, 22851.1, 23197, 23203, 25110, 25802, 27207, 32050, 33002, 35782, 35790, 36505, 38010, 38080, 40000.7, 40513, 40802, 40802.5, 40803, 40901, 42003, and 42230 of the Vehicle Code, to amend Sections 10610.2, 10635, 10913, 13274, 35281, and 35282 of, and to amend and renumber Section 21267 of, the Water Code, to amend and renumber the heading of Article 4.05 (commencing with Section 14139.05) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, and to amend Section 5 of Chapter 52 of the Statutes of 1941 and Section 3 of Chapter 981 of the Statutes of 1995, relating to maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

AB 3470, as introduced, Committee on Judiciary. Maintenance of the Codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.



This bill would restate existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 1996, and would not make any substantive change in the law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 650.4 of the Business and
2 Professions Code is amended to read:

3 650.4. (a) Notwithstanding Section 650, ~~or~~
4 subdivision (o) of Section 4982, or any other provision of
5 law, it shall not be unlawful for a person licensed pursuant
6 to Chapter 13 (commencing with Section 4980) or any
7 other person, to participate in or operate a group
8 advertising and referral service for marriage, family, and
9 child counselors if all of the following conditions are met:

10 (1) The patient referrals by the service are the result
11 of patient-initiated responses to service advertising.

12 (2) The service advertises, if at all, in conformity with
13 Section 651 and subdivision (p) of Section 4982.

14 (3) The service does not employ a solicitor to solicit
15 prospective patients or clients.

16 (4) The service does not impose a fee on the member
17 marriage, family, and child counselors that is dependent
18 upon the number of referrals or amount of professional
19 fees paid by the patient to the marriage, family, and child
20 counselor.

21 (5) Participating marriage, family, and child
22 counselors charge no more than their usual and
23 customary fees to any patient referred.

24 (6) The service registers with the Board of Behavioral
25 Science Examiners, providing its name, street address,
26 and telephone number.

27 (7) The service files with the Board of Behavioral
28 Science Examiners a copy of the standard form contract
29 that regulates its relationship with member marriage,
30 family, and child counselors, which contract shall be
31 confidential and not open to public inspection.



1 (8) If more than 50 percent of its referrals are made to
2 one individual, association, partnership, corporation, or
3 group of three or more marriage, family, and child
4 counselors, the service discloses that fact in all public
5 communications, including, but not limited to,
6 communications by means of television, radio, motion
7 picture, newspaper, book, list, or directory of healing arts
8 practitioners.

9 (9) ~~(1)~~-(A) When member marriage, family, and
10 child counselors pay any fee to the service, any
11 advertisement by the service shall clearly and
12 conspicuously disclose that fact by including a statement
13 as follows: "Paid for by participating marriage, family,
14 and child counselors." In print advertisements, the
15 required statement shall be in at least 9-point type. In
16 radio advertisements, the required statement shall be
17 articulated so as to be clearly audible and understandable
18 by the radio audience. In television advertisements, the
19 required statement shall be either clearly audible and
20 understandable to the television audience, or displayed in
21 a written form that remains clearly visible to the
22 television audience for at least five seconds.

23 ~~(2)~~
24 (B) The Board of Behavioral Science Examiners may
25 suspend or revoke the registration of any service that fails
26 to comply with ~~paragraph (1)~~ *subparagraph (A)*. No
27 service may reregister with the board if ~~it has a~~ *its*
28 registration ~~that is~~ *is* currently under suspension for a
29 violation of ~~paragraph (1)~~ *subparagraph (A)*, nor may a
30 service reregister with the board for a period of one year
31 after it has had a registration revoked by the board for a
32 violation of ~~paragraph (1)~~ *subparagraph (A)*.

33 (b) The Board of Behavioral Science Examiners may
34 adopt regulations necessary to enforce and administer
35 this section.

36 (c) The Board of Behavioral Science Examiners or 10
37 individual licensed marriage, family, and child counselors
38 may petition the superior court of any county for the
39 issuance of an injunction restraining any conduct that
40 constitutes a violation of this section.



1 (d) It is unlawful and shall constitute a misdemeanor
2 for a person to operate a group advertising and referral
3 service for marriage, family, and child counselors without
4 providing its name, address, and telephone number to the
5 Board of Behavioral Science Examiners.

6 (e) It is the intent of the Legislature in enacting this
7 section not to otherwise affect the prohibitions of Section
8 650. The Legislature intends to allow the pooling of
9 resources by marriage, family, and child counselors for
10 the purpose of advertising.

11 (f) This section shall not be construed in any manner
12 that would authorize a referral service to engage in the
13 practice of marriage, family, and child counseling.

14 SEC. 2. Section 2725 of the Business and Professions
15 Code is amended to read:

16 2725. (a) In amending this section at the 1973–74
17 session, the Legislature recognizes that nursing is a
18 dynamic field, the practice of which is continually
19 evolving to include more sophisticated patient care
20 activities. It is the intent of the Legislature in amending
21 this section at the 1973–74 session to provide clear legal
22 authority for functions and procedures ~~which~~ *that* have
23 common acceptance and usage. It is the legislative intent
24 also to recognize the existence of overlapping functions
25 between physicians and registered nurses and to permit
26 additional sharing of functions within organized health
27 care systems ~~which~~ *that* provide for collaboration
28 between physicians and registered nurses. These
29 organized health care systems include, but are not limited
30 to, health facilities licensed pursuant to Chapter 2
31 (commencing with Section 1250) of Division 2 of the
32 Health and Safety Code, clinics, home health agencies,
33 physicians' offices, and public or community health
34 services.

35 ~~The~~

36 (b) *The* practice of nursing within the meaning of this
37 chapter means those functions, including basic health
38 care, ~~which~~ *that* help people cope with difficulties in daily
39 living ~~which~~ *that* are associated with their actual or
40 potential health or illness problems or the treatment



1 thereof ~~which~~, and that require a substantial amount of
2 scientific knowledge or technical skill, ~~and includes~~
3 including all of the following:

4 (a)

5 (1) Direct and indirect patient care services that
6 ~~insure~~ ensure the safety, comfort, personal hygiene, and
7 protection of patients; and the performance of disease
8 prevention and restorative measures.

9 (b)

10 (2) Direct and indirect patient care services,
11 including, but not limited to, the administration of
12 medications and therapeutic agents, necessary to
13 implement a treatment, disease prevention, or
14 rehabilitative regimen ordered by and within the scope
15 of licensure of a physician, dentist, podiatrist, or clinical
16 psychologist, as defined by Section 1316.5 of the Health
17 and Safety Code.

18 (c)

19 (3) The performance of skin tests, immunization
20 techniques, and the withdrawal of human blood from
21 veins and arteries.

22 (d)

23 (4) Observation of signs and symptoms of illness,
24 reactions to treatment, general behavior, or general
25 physical condition, and ~~(1)~~ (A) determination of whether
26 the signs, symptoms, reactions, behavior, or general
27 appearance exhibit abnormal characteristics, and ~~(2)~~
28 (B) implementation, based on observed ~~abnormalities~~
29 *abnormalities*, of appropriate reporting, or referral, or
30 standardized procedures, or changes in treatment
31 regimen in accordance with standardized procedures, or
32 the initiation of emergency procedures.

33 ~~“Standardized~~

34 (c) “*Standardized* procedures,” as used in this section,
35 means either of the following:

36 (1) Policies and protocols developed by a health
37 facility licensed pursuant to Chapter 2 (commencing
38 with Section 1250) of Division 2 of the Health and Safety
39 Code through collaboration among administrators and
40 health professionals including physicians and nurses;



1 (2) Policies and protocols developed through
2 collaboration among administrators and health
3 professionals, including physicians and nurses, by an
4 organized health care system which is not a health facility
5 licensed pursuant to Chapter 2 (commencing with
6 Section 1250) of Division 2 of the Health and Safety Code.

7 ~~The~~

8 *The* policies and protocols shall be subject to any
9 guidelines for standardized procedures that the Division
10 of Licensing of the Medical Board of California; and the
11 Board of Registered Nursing may jointly promulgate; ~~and~~
12 ~~if~~ *If* promulgated, *the guidelines* shall be administered by
13 the Board of Registered Nursing.

14 ~~Nothing~~

15 *(d) Nothing* in this section shall be construed to
16 require approval of standardized procedures by the
17 Division of Licensing of the Medical Board of California,
18 or by the Board of Registered Nursing.

19 SEC. 3. Section 12240 of the Business and Professions
20 Code is amended to read:

21 12240. (a) Except as otherwise provided in this
22 section, the board of supervisors may, by ordinance,
23 charge an annual device registration fee, not to exceed
24 the county's total cost of actually inspecting or testing the
25 devices as required by law, to recover the costs of
26 inspecting or testing weighing and measuring devices
27 required of the county sealer pursuant to Section 12210,
28 and to recover the cost of carrying out Section 12211.

29 (b) Except as otherwise provided in this section, the
30 device registration fee shall not exceed the amount
31 prescribed in the Table of Maximum Annual Charges set
32 forth in subdivision (f).

33 (c) The county may collect the fees biennially, in
34 which case they shall not exceed twice the amount of an
35 annual fee. The ordinance shall be adopted pursuant to
36 Article 7 (commencing with Section 25120) of Chapter 1
37 of Part 2 of Division 2 of Title 2 of the Government Code.

38 (d) Retail gasoline pump meters, for which the above
39 fees are assessed, shall be inspected as frequently as



1 required by regulation, but not less than once every two
2 years.

3 (e) Livestock scales, animal scales and scales used
4 primarily for weighing feed and seed, for which the above
5 fees are assessed, shall be inspected as frequently as
6 required by regulation.

7 (f) Table of Maximum Annual Charges:

9 Number of 10 Devices	Charge Per Location
11 1 to 3	\$ 40
12 4 to 9	\$ 80
13 10 to 19	\$120
14 20 to 25	\$160
15 Over 25	\$200

16
17 (g) For mobilehome parks, recreational vehicle parks,
18 and apartment complexes, where the owner of the park
19 or complex owns and is responsible for the utility meters,
20 the annual fee shall not exceed sixty dollars (\$60) per park
21 or complex, and a fee of up to two dollars (\$2) per device
22 per space or apartment. Mobilehome parks, recreational
23 vehicle parks, and apartment complexes for which the
24 above fees are assessed, shall be inspected and tested as
25 frequently as required by regulation.

26 (h) For weighing devices, other than livestock and
27 motor truck scales, with capacities of 20,000 pounds or
28 greater, the registration fee shall be two hundred dollars
29 (\$200) per device.

30 (i) For motor truck scales, the registration fee shall be
31 one hundred dollars (\$100) per device.

32 (j) This section does not apply to farm milk tanks.

33 (k) A scale or device used in a certified farmers'
34 market, as defined by Section 27512 of the Health and
35 Safety Code, is not required to be registered in the county
36 where the market is conducted, if the scale or device has
37 an unexpired seal for the current year, issued by a
38 licensed California county sealer.

39 (†)



1 (l) For livestock scales with capacities of 20,000 pounds
2 or more, the registration fee shall be one hundred dollars
3 (\$100) per device, except that the fee for not more than
4 three devices at a single location shall be one hundred
5 dollars (\$100).

6 SEC. 4. Section 23057 of the Business and Professions
7 Code is amended to read:

8 23057. The department shall send, with each renewal
9 notice to any on-sale or off-sale licensee, information
10 regarding the use of persons under the age of 21 years by
11 peace officers to apprehend licensees, or the employees
12 or agents of licensees, who sell alcoholic beverages to
13 ~~minors~~ *persons under the age of 21 years.*

14 SEC. 5. Section 23104.1 of the Business and
15 Professions Code is amended to read:

16 23104.1. A retailer may return wine to the seller or to
17 the successor of the seller and the seller or his or her
18 successor may accept the return thereof, ~~but~~ *except that*
19 the seller or his or her successor may not sell wine to the
20 retailer for a period of one year after the date the
21 returned wine is accepted or received unless any of the
22 following ~~exist~~ *exists*:

23 (a) The wine is returned in exchange for the identical
24 quantity, brand, and item of wine.

25 (b) The wine is returned pursuant to court order.

26 (c) The returned wine is a brand or item of wine ~~which~~
27 *that* has been discontinued by the seller or his or her
28 successor, and the wine is exchanged for the identical
29 quantity of a brand or item of similar quality.

30 (d) The wine delivered was other than that ordered by
31 a retailer or was in a quantity other than that ordered. In
32 these cases, the retailer may, within 15 days after delivery,
33 return the wine to the seller or his or her successor for
34 exchange for the wine actually ordered, or may return
35 the wine delivered in excess of the wine actually ordered.
36 Returns under this subdivision may also be made after 15
37 days from the date of delivery upon written approval of
38 the department.

39 (e) The wine has deteriorated in quality or the
40 container thereof has been damaged, or the label or



1 container for the wine has been changed, and the wine is
2 returned and exchanged for the identical quantity of the
3 same brand and type of wine and size of container. For
4 the purpose of this subdivision, “wines of the same type”
5 means wines ~~which~~ *that* are within the same class as
6 provided in Article 14 (commencing with Section 17001)
7 of Title 17 of the California Code of Regulations; and
8 ~~which~~ bear the same rate of state wine excise tax.

9 If wine or the container thereof is damaged or
10 deteriorated, and the seller thereof has ceased to carry on
11 a business licensed under this division and there is no
12 successor to the business, the wine may be returned by a
13 retailer to a winegrower or wholesaler who handles the
14 same brand or item of wine, upon the same terms and
15 conditions provided in this section for the return of wine
16 to a seller or his or her successor, after receiving approval
17 from the department.

18 The approval of the department shall ~~only~~ be required
19 *only* for returns made after 15 days from the date of
20 delivery under the provisions of subdivision (d), or
21 returns made under the provisions of the immediately
22 preceding paragraph.

23 (f) As used in subdivisions (a), (c), and (e), the term
24 “identical quantity” includes wine in metric measure
25 containers and wine in United States standard measure
26 containers ~~which~~ *that* contain substantially the same
27 amount of wine.

28 (g) Notwithstanding the above provisions, a seller may
29 accept the return of wine from a seasonal or temporary
30 licensee if, at the termination of the period of the license,
31 the seasonal or temporary licensee has wine remaining
32 unsold, or from an annual licensee operating on a
33 temporary basis if, at the termination of the temporary
34 period, the annual licensee has wine remaining unsold.

35 SEC. 6. Section 25662 of the Business and Professions
36 Code is amended to read:

37 25662. (a) Any person under the age of 21 years who
38 has any alcoholic beverage in his or her possession on any
39 street or highway or in any public place or in any place
40 open to the public is guilty of a misdemeanor. This section



1 does not apply to possession by a person under the age of
2 21 years making a delivery of an alcoholic beverage in
3 pursuance of the order of his or her parent, responsible
4 adult relative, or any other adult designated by the parent
5 or legal guardian, or in pursuance of his or her
6 employment. That person shall have a complete defense
7 if he or she was following, in a timely manner, the
8 reasonable instructions of his or her parent legal
9 guardian, responsible adult relative, or adult designee
10 relating to disposition of the alcoholic beverage.

11 (b) Unless otherwise provided by law, where a peace
12 officer has lawfully entered the premises, the peace
13 officer may seize any alcoholic beverage in plain view
14 ~~which~~ *that* is in the possession of, or provided to, a person
15 under the age of 21 years at social gatherings, when those
16 gatherings are open to the public, 10 or more persons
17 under the age of 21 years are participating, persons under
18 the age of 21 years are consuming alcoholic beverages,
19 and there is no supervision of the social gathering by a
20 parent or guardian of one or more of the participants.

21 Where a peace officer has seized alcoholic beverages
22 pursuant to this subdivision, the officer may destroy any
23 alcoholic beverage contained in an opened container and
24 in the ~~possession~~ *possession* of, or provided to, a person
25 under the age of 21 years, and, with respect to alcoholic
26 beverages in unopened containers, the officer shall
27 impound those beverages for a period not to exceed seven
28 working days pending a request for the release of those
29 beverages by a person 21 years of age or older who is the
30 lawful owner or resident of the property upon which the
31 alcoholic beverages were seized. If no one requests
32 release of the seized alcoholic beverages within that
33 period, those beverages may be destroyed.

34 SEC. 7. Section 2079.12 of the Civil Code is amended
35 to read:

36 2079.12. (a) The Legislature hereby finds and
37 declares all of the following:

38 (1) That the imprecision of terms in the opinion
39 rendered in *Easton v. Strassburger*, 152 Cal. App. 3d 90,
40 and the absence of a comprehensive declaration of duties,

1 standards, and exceptions, has caused insurers to modify
2 professional liability coverage of real estate licensees and
3 has caused confusion among real estate licensees as to the
4 manner of performing the duty ascribed to them by the
5 court.

6 (2) That it is necessary to resolve and make precise
7 these issues in an expeditious manner.

8 (3) That it is desirable to facilitate the issuance of
9 professional liability insurance as a resource for aggrieved
10 members of the public.

11 (4) That ~~Section~~ Sections 2079 to 2079.6, inclusive, of
12 this article should be construed as a definition of the duty
13 of care found to exist by the holding of Easton v.
14 Strassburger, 152 Cal. App. 3d 90, and the manner of its
15 discharge.

16 (b) It is the intent of the Legislature to codify and
17 make precise the holding of Easton v. Strassburger, 152
18 Cal. App. 3d 90. It is not the intent of the Legislature to
19 modify or restrict existing duties owed by real estate
20 licensees.

21 SEC. 8. Section 2945.11 of the Civil Code is amended
22 to read:

23 2945.11. (a) Any representative, as defined in
24 subdivision (b) of Section ~~2945.09~~ 2945.9, deemed to be
25 the agent or employee or both the agent and the
26 employee of the foreclosure consultant shall be required
27 to provide both of the following:

28 (1) Written proof to the owner that the representative
29 has a valid current California Real Estate Sales License
30 and that the representative is bonded by an admitted
31 surety insurer in an amount equal to at least twice the fair
32 market value of the real property ~~which~~ that is the subject
33 of the contract.

34 (2) A statement in writing, under penalty of perjury,
35 that the representative has a valid current California Real
36 Estate Sales License, that the representative is bonded by
37 an admitted surety insurer in an amount equal to at least
38 twice the value of the real property ~~which~~ that is the
39 subject of the contract and has complied with paragraph
40 (1). The written statement required by this paragraph



1 shall be provided to all parties to the contract prior to the
2 transfer of any interest in the real property ~~which~~ *that* is
3 the subject of the contract.

4 (b) The failure to comply with subdivision (a) shall, at
5 the option of the owner, render the contract void and the
6 foreclosure consultant shall be liable to the owner for all
7 damages proximately caused by the failure to comply.

8 SEC. 9. Section 2983.2 of the Civil Code is amended
9 to read:

10 2983.2. (a) Except where the motor vehicle has been
11 seized as described in paragraph (6) of subdivision (b) of
12 Section 2983.3, *notwithstanding* any provision in any
13 conditional sale contract for the sale of a motor vehicle to
14 the contrary ~~notwithstanding~~, at least 15 days' written
15 notice of intent to dispose of a repossessed or surrendered
16 motor vehicle shall be given to all persons liable on the
17 contract. The notice shall be personally served or shall be
18 sent by certified mail, return receipt requested, or
19 first-class mail, postage prepaid, directed to the last
20 known address of the persons liable on the contract. If
21 those persons are married to each other; and, according
22 to the most recent records of the seller or holder of the
23 contract, reside at the same address, one notice addressed
24 to both persons at that address is sufficient. Except as
25 otherwise provided in Section 2983.8, those persons shall
26 be liable for any deficiency after disposition of the
27 repossessed or surrendered motor vehicle only if the
28 notice prescribed by this section is given within 60 days
29 of repossession or surrender and does all of the following:

30 (1) ~~Sets forth~~ *States* that those persons shall have a
31 right to redeem the motor vehicle by paying in full the
32 indebtedness evidenced by the contract until the
33 expiration of 15 days from the date of giving or mailing
34 the notice and provides an itemization of the contract
35 balance and of any ~~delinquency~~ *delinquency*, collection, or
36 repossession costs and fees and sets forth the computation
37 or estimate of the amount of any credit for unearned
38 finance charges or canceled insurance as of the date of the
39 notice.



1 (2) States either that there is a conditional right to
2 reinstate the contract until the expiration of 15 days from
3 the date of giving or mailing the notice and all the
4 conditions precedent thereto or that there is no right of
5 reinstatement and provides a statement of reasons
6 therefor.

7 (3) States that, upon written request, the seller or
8 holder shall extend for an additional 10 days the
9 redemption period or, if entitled to the conditional right
10 of reinstatement, both the redemption and
11 reinstatement periods. The seller or holder shall provide
12 the proper form for applying for the extensions with the
13 substance of the form being limited to the extension
14 request, spaces for the requesting party to sign and date
15 the form, and instructions that it must be personally
16 served or sent by certified or registered mail, return
17 receipt requested, to a person or office and address
18 designated by the seller or holder and received before the
19 expiration of the initial redemption and reinstatement
20 periods.

21 (4) Discloses the place at which the motor vehicle will
22 be returned to those persons upon redemption or
23 reinstatement.

24 (5) Designates the name and address of the person or
25 office to whom payment shall be made.

26 (6) States the seller's or holder's intent to dispose of the
27 motor vehicle upon the expiration of 15 days from the
28 date of giving or mailing the notice, or if by mail and
29 either the place of deposit in the mail or the place of
30 address is outside of this state, the period shall be 20 days
31 instead of 15 days; and, further, that upon written request
32 to extend the redemption period and any applicable
33 reinstatement period for 10 days, the seller or holder shall
34 without further notice extend the period accordingly.

35 (7) Informs ~~such~~ *those* persons that, upon written
36 request, the seller or holder shall furnish a written
37 accounting regarding the disposition of the motor vehicle
38 as provided for in subdivision (b). The seller or holder
39 shall advise them that ~~such~~ *the* request must be
40 personally served or sent first-class mail, postage prepaid,



1 or certified mail, return receipt requested, to a person or
2 office and address designated by the seller or holder.

3 (8) Includes notice, in at least 10-point bold type if the
4 notice is printed, reading as follows: “NOTICE. YOU
5 MAY BE SUBJECT TO SUIT AND LIABILITY IF THE
6 AMOUNT OBTAINED UPON DISPOSITION OF THE
7 VEHICLE IS INSUFFICIENT TO PAY THE
8 CONTRACT BALANCE AND ANY OTHER AMOUNTS
9 DUE.”

10 (b) Unless automatically provided to the buyer within
11 45 days after the disposition of the motor vehicle, the
12 seller or holder shall provide to any person liable on the
13 contract within 45 days after their written request, if the
14 request is made within one year after the disposition, a
15 written accounting regarding the disposition. The
16 accounting shall itemize *all of the following*:

17 (1) The gross proceeds of the disposition.

18 (2) The reasonable and necessary expenses incurred
19 for retaking, holding, preparing for and conducting the
20 sale and, to the extent provided for in the agreement and
21 not prohibited by law, reasonable attorney fees and legal
22 expenses incurred by the seller or holder in retaking the
23 vehicle from any person not a party to the contract.

24 (3) The satisfaction of indebtedness secured by any
25 subordinate lien or encumbrance on the motor vehicle if
26 written notification of demand therefor is received
27 before distribution of the proceeds is completed. If
28 requested by the seller or holder, the holder of a
29 subordinate lien or encumbrance must seasonably
30 furnish reasonable proof of its interest; and, unless it does
31 so, the seller or holder need not comply with its demand.

32 (c) In all sales ~~which~~ *that* result in a surplus, the seller
33 or holder shall furnish an accounting as provided in
34 subdivision (b) whether or not requested by the buyer.
35 Any surplus shall be returned to the buyer within 45 days
36 after the sale is conducted.

37 (d) This section ~~shall~~ *does* not apply to a loan made by
38 a lender licensed under Division 9 (commencing with
39 Section 22000) or Division 10 (commencing with Section
40 24000) of the Financial Code.



1 SEC. 10. Section 3319 of the Civil Code is amended to
2 read:

3 3319. (a) In each written contract for private works
4 of improvement entered into on or after January 1, 1996,
5 the contracting party and the design professional may
6 agree to contractual provisions that include a late
7 payment penalty, in lieu of any interest otherwise due.
8 The terms of the late payment penalty shall be
9 specifically set forth in the written contract.

10 (b) The penalty authorized pursuant to subdivision
11 (a) shall be separate from, and in addition to, the design
12 ~~professional's~~ *professionals'* liens provided by Chapter 8
13 (commencing with Section 3081.1) of Title 14 of Part 4 of
14 Division 3, ~~mechanics~~ *mechanics'* liens provided by
15 Chapter 2 (commencing with Section 3109) of Title 15 of
16 Part 4 of Division 3, and stop notices for private works
17 provided in Chapter 3 (commencing with Section 3156)
18 of Title 15 of Part 4 of Division 3.

19 (c) None of the rights or obligations created or
20 permitted by this section between design professionals
21 and contracting parties shall apply to construction loan
22 funds held by a lender pursuant to a construction loan
23 agreement.

24 (d) For purposes of this section, *the following*
25 *definitions apply:*

26 (1) "Contracting party" means any person or entity
27 entering into a written contract with a design professional
28 for professional design services for a private work of
29 improvement.

30 (2) "Design professional" means a person licensed as
31 an architect pursuant to Chapter 3 (commencing with
32 Section 5500) of Division 3 of the Business and Professions
33 Code, registered as a professional engineer pursuant to
34 Chapter 7 (commencing with Section 6700) of Division
35 3 of the Business and Professions Code, or licensed as a
36 land surveyor pursuant to Chapter 15 (commencing with
37 Section 8700) of Division 3 of the Business and Professions
38 Code.

39 SEC. 11. Section 3320 of the Civil Code is amended to
40 read:



1 3320. (a) In each contract for public works of
2 improvement, entered into on or after January 1, 1996,
3 the public agency shall pay to the prime design
4 professional any progress payment within 30 days of
5 receipt of a written demand for payment in accordance
6 with the contract, and the final retention payment within
7 45 days of receipt of a written demand for payment in
8 accordance with the contract. If the public agency
9 disputes in good faith any portion of the amount due, it
10 may withhold from the payment an amount not to exceed
11 150 percent of the disputed amount. The disputed
12 amount withheld shall not be subject to any ~~penalties~~
13 *penalty* authorized by this section.

14 (b) If any amount is wrongfully withheld or is not
15 timely paid in violation of this section, the prime design
16 professional shall be entitled to a penalty of 1¹/₂ percent
17 for the improperly withheld amount, in lieu of any
18 interest otherwise due, per month for every month that
19 payment is not made. In any action for the collection of
20 amounts withheld in violation of this section, the
21 prevailing party shall be entitled to his or her reasonable
22 attorney's fees and costs.

23 (c) The penalty described in subdivision (b) shall be
24 separate from, and in addition to, the design ~~professional's~~
25 *professionals'* liens provided by Chapter 8 (commencing
26 with Section 3081.1) of Title 14 of Part 4 of Division 3,
27 ~~mechanics~~ *mechanics'* liens provided by Chapter 2
28 (commencing with Section 3109) of Title 15 of Part 4 of
29 Division 3, and stop notices for public works provided in
30 Chapter 3 (commencing with Section 3156) of Title 15 of
31 Part 4 of Division 3.

32 (d) This section ~~shall~~ *does* not apply to state agency
33 contracts subject to Sections 926.15 and 926.17 of the
34 Government Code.

35 (e) None of the rights or obligations created by this
36 section between prime design professionals and public
37 agencies shall apply to construction loan funds held by a
38 lender pursuant to a construction loan agreement.

39 (f) For purposes of this section:



1 (1) “Public agency” means the state, any county, any
 2 city, any city and county, any district, any public
 3 authority, any public agency, any municipal corporation
 4 or other political subdivision or political corporation of
 5 the state.

6 (2) “Design professional” means a person licensed as
 7 an architect pursuant to Chapter 3 (commencing with
 8 Section 5500) of Division 3 of the Business and Professions
 9 Code, registered as a professional engineer pursuant to
 10 Chapter 7 (commencing with Section 6700) of Division
 11 3 of the Business and Professions Code, or licensed as a
 12 land surveyor pursuant to Chapter 15 (commencing with
 13 Section 8700) of Division 3 of the Business and Professions
 14 Code.

15 (3) “Prime design professional” means a design
 16 professional with a written contract directly with the
 17 public agency.

18 SEC. 12. Section 3321 of the Civil Code is amended to
 19 read:

20 3321. (a) In each contract for public works of
 21 improvement, a prime design professional shall pay to
 22 each subconsultant design professional the amount due
 23 him or her from the payment received, not later than 15
 24 days after receipt of each progress payment or final
 25 retention payment. If the prime design professional
 26 disputes in good faith any portion of the amount due, he
 27 or she may withhold from the payment an amount not to
 28 exceed 150 percent of the disputed amount. The disputed
 29 amount withheld shall not be subject to any ~~penalties~~
 30 *penalty* authorized by this section.

31 (b) If any amount is wrongfully withheld or is not
 32 timely paid in violation of this section, the subconsultant
 33 design professional shall be entitled to a penalty of 1¹/₂
 34 percent of the improperly withheld amount, in lieu of any
 35 interest otherwise due, per month, for each month that
 36 payment is not made. In any action for the collection of
 37 amounts withheld in violation of this section, the
 38 prevailing party shall be entitled to his or her reasonable
 39 attorney’s fees and costs.



1 (c) The penalty described in subdivision (b) shall be
2 separate from, and in addition to, the design professional's
3 *professionals'* liens provided by Chapter 8 (commencing
4 with Section 3081.1) of Title 14 of Part 4 of Division 3,
5 ~~mechanics~~ *mechanics'* liens provided by Chapter 2
6 (commencing with Section 3109) of Title 15 of Part 4 of
7 Division 3, and stop notices for public works provided in
8 Chapter 3 (commencing with Section 3156) of Title 15 of
9 Part 4 of Division 3.

10 (d) None of the rights or obligations created by this
11 section between prime design professionals and
12 subconsultant design professionals shall apply to
13 construction loan funds held by a lender pursuant to a
14 construction loan agreement.

15 (e) For purposes of this section:

16 (1) "Public agency" means the state, any county, any
17 city, any city and county, any district, any public
18 authority, any public agency, any municipal corporation
19 or other political subdivision or political corporation of
20 the state.

21 (2) "Design professional" means a person licensed as
22 an architect pursuant to Chapter 3 (commencing with
23 Section 5500) of Division 3 of the Business and Professions
24 Code, registered as a professional engineer pursuant to
25 Chapter 7 (commencing with Section 6700) of Division
26 3 of the Business and Professions Code, or licensed as a
27 land surveyor pursuant to Chapter 15 (commencing with
28 Section 8700) of Division 3 of the Business and Professions
29 Code.

30 (3) "Prime design professional" means a design
31 professional ~~with~~ *having* a written contract directly with
32 the public agency.

33 (4) "Subconsultant design professional" means a
34 design professional having a written contract with a
35 prime design professional.

36 SEC. 13. Section 107.65 of the Code of Civil Procedure
37 is amended and renumbered to read:

38 ~~107.65.—~~

39 *170.65.* (a) A retired judge shall not hear and try any
40 criminal cause when it is stipulated jointly by the



1 prosecuting attorney and the defendant and his or her
2 counsel, and submitted to the court as hereinafter
3 provided, that the retired judge is not capable or qualified
4 to hear and try the criminal cause.

5 (b) (1) If the parties know which retired judge is
6 scheduled to hear and try the criminal cause at least 10
7 days before the date set for trial or hearing, the stipulation
8 shall be submitted in writing at least five days before that
9 date. If directed to the trial of a criminal cause where
10 there is a master calendar, the stipulation shall be
11 submitted to the judge supervising the master calendar
12 not later than the time the criminal cause is assigned for
13 trial. If the stipulation is submitted orally, a written
14 stipulation shall also be submitted within five days of
15 submitting the oral stipulation.

16 (2) Commencing January 1, 1997, upon receipt of a
17 stipulation submitted pursuant to paragraph (1), the
18 clerk of the municipal and superior courts of each county
19 shall submit a copy to the Judicial Council.

20 (3) On or before June 30, 2000, the Judicial Council
21 shall submit to the Legislature a written report regarding
22 the frequency of parties stipulating that a retired judge
23 is not capable or qualified to hear and try a criminal cause
24 based upon the information collected pursuant to
25 paragraph (2) during the operative time period of this
26 section.

27 (c) This section shall remain in effect until January 1,
28 2001, and as of that date is repealed, unless a later enacted
29 statute, which is enacted before January 1, 2001, deletes
30 or extends that date.

31 SEC. 14. Section 708.750 of the Code of Civil
32 Procedure, as added by Chapter 363 of the Statutes of
33 1995, is amended and renumbered to read:

34 ~~708.750.—~~

35 708.755. (a) Upon compliance with this section, the
36 lien of a judgment creditor pursuant to this article is
37 created against a lottery prize to be paid in annual
38 installments and shall continue in force and effect until
39 the judgment is paid or expires, whichever occurs first.



1 For the lien to continue in effect, the judgment creditor
2 shall do all of the following:

3 (1) Commencing with the second installment against
4 which the judgment lien creditor asserts its lien, annually
5 file with the lottery an affidavit stating that the judgment
6 has not been satisfied and the amount of the remaining
7 unsatisfied judgment, including interest and costs, if any.
8 This affidavit shall be filed with the lottery not less than
9 45 days, nor more than 90 days, before the annual
10 payment due date on the prize that is the subject of the
11 judgment lien.

12 (2) If the judgment lien is renewed, file with the
13 lottery a certified copy of the renewal application, as
14 authorized in this code not less than 45 days, nor more
15 than 90 days, before the annual payment due date on the
16 prize that is the subject of the judgment lien, in order for
17 the judgment lien to be effective in continuing the
18 existing judgment lien against the annual lottery prize
19 payments.

20 (b) If the judgment lien creditor fails to file the annual
21 statement, renewal of judgment, or renewal of abstract,
22 the lien shall expire. Expiration of a lien for failure to
23 comply with this section shall not preclude the judgment
24 creditor from commencing a new procedure under this
25 article to enforce the judgment, to the extent that the
26 judgment otherwise continues to be enforceable under
27 applicable law.

28 SEC. 15. The heading of Part 3.5 (commencing with
29 former Section 1823) of the Code of Civil Procedure is
30 repealed.

31

32 ~~PART 3.5.—OF ALTERNATIVE PROCEDURES~~

33

34 SEC. 15.5. Section 1991.1 of the Code of Civil
35 Procedure is amended to read:

36 1991.1. Disobedience to a subpoena requiring
37 attendance of a witness before an officer out of court in
38 a deposition taken pursuant to Article 3; *(commencing*
39 *with Section 2016) of Chapter 3; of Title 3; of Part 4*
40 ~~(commencing at Section 2016), or refusal to be sworn as~~



1 a witness at ~~such~~ *that* deposition, may be punished as
2 contempt, as provided in *paragraph (5) of subdivision*
3 *(b) of Section 2034 2023*, without the necessity of a prior
4 order of court directing compliance by the witness.

5 SEC. 16. Section 9501 of the Commercial Code, as
6 amended by Section 6 of Chapter 591 of the Statutes of
7 1995, is amended to read:

8 9501. (1) When a debtor is in default under a security
9 agreement, a secured party has the rights and remedies
10 provided in this chapter and, except as limited by
11 subdivision (3), those provided in the security
12 agreement. The secured party may reduce his or her
13 claim to judgment, foreclose, or otherwise enforce the
14 security interest by any available judicial procedure. If
15 the collateral is documents the secured party may
16 proceed either as to the documents or as to the goods
17 covered thereby. A secured party in possession has the
18 rights, remedies, and duties provided in Section 9207. The
19 rights and remedies referred to in this subdivision are
20 cumulative.

21 (2) After default, the debtor has the rights and
22 remedies provided in this chapter, those provided in the
23 security agreement, and those provided in Section 9207.

24 (3) To the extent that they give rights to the debtor
25 and impose duties on the secured party, the rules stated
26 in the subdivisions referred to below may not be waived
27 or varied except as provided with respect to compulsory
28 disposition of collateral (subdivision (3) of Section 9504
29 and Section 9505) and with respect to redemption of
30 collateral (Section 9506), but the parties may by
31 agreement determine the standards by which the
32 fulfillment of these rights and duties is to be measured if
33 ~~such~~ *those* standards are not manifestly unreasonable:

34 (a) Subdivision (2) of Section 9502 and subdivision (2)
35 of Section 9504, insofar as they require accounting for
36 surplus proceeds of collateral and deal with the debtor's
37 liability for any deficiency;

38 (b) Subdivision (3) of Section 9504 and subdivision (1)
39 of Section 9505 that deal with disposition of collateral;



1 (c) Subdivision (2) of Section 9505 that deals with
2 acceptance of collateral as discharge of obligation;

3 (d) Section 9506 that deals with redemption of
4 collateral; and

5 (e) Subdivision (1) of Section 9507 that deals with the
6 secured party's liability for failure to comply with this
7 chapter.

8 (4) If an obligation secured by a security interest in
9 personal property or fixtures (Section 9313(1)(a)) is also
10 secured by an interest in real property or an estate
11 therein:

12 (a) The secured party may do any of the following:

13 (i) Proceed, in any sequence, (1) in accordance with
14 the secured party's rights and remedies in respect of real
15 property as to the real property security, and (2) in
16 accordance with this chapter as to the personal property
17 or fixtures.

18 (ii) Proceed in any sequence, as to both some or all of
19 the real property and some or all of the personal property
20 or fixtures in accordance with the secured party's rights
21 and remedies in respect of the real property, by including
22 the portion of the personal property or fixtures selected
23 by the secured party in the judicial or nonjudicial
24 foreclosure of the real property in accordance with the
25 procedures applicable to real property. In proceeding
26 under this subparagraph, (A) no provision of this chapter
27 other than this subparagraph, subparagraph (iii) of
28 paragraph (d), and paragraphs (g) and (h) shall apply to
29 any aspect of the foreclosure; (B) a power of sale under
30 the deed of trust or mortgage shall be exercisable with
31 respect to both the real property and the personal
32 property or fixtures being sold; and (C) the sale may be
33 conducted by the mortgagee under the mortgage or by
34 the trustee under the deed of trust. The secured party
35 shall not be deemed to have elected irrevocably to
36 proceed as to both real property and personal property
37 or fixtures as provided in this subparagraph with respect
38 to any particular property, unless and until that particular
39 property *actually* has been ~~actually~~ disposed of pursuant
40 to a unified sale (judicial or nonjudicial) conducted in



1 accordance with the procedures applicable to real
2 property, and then only as to the property so sold.

3 (iii) Proceed, in any sequence, as to part of the
4 personal property or fixtures as provided in subparagraph
5 (i), and as to other of the personal property or fixtures as
6 provided in subparagraph (ii).

7 (b) (i) Except as otherwise provided in paragraph
8 (c), provisions and limitations of any law respecting real
9 property and obligations secured by an interest in real
10 property or an estate therein, including, but not limited
11 to, Section 726 of the Code of Civil Procedure, provisions
12 regarding acceleration or reinstatement of obligations
13 secured by an interest in real property or an estate
14 therein, prohibitions against deficiency judgments,
15 limitations on deficiency judgments based on the value of
16 the collateral, limitations on the right to proceed as to
17 collateral, and requirements that a creditor resort either
18 first or at all to its security, do not in any way apply to
19 either (1) any personal property or fixtures other than
20 personal property or fixtures as to which the secured
21 party has proceeded or is proceeding under
22 subparagraph (ii) of paragraph (a), or (2) the obligation.

23 (ii) Pursuant to, but without limiting subparagraph
24 (i), in the event that an obligation secured by personal
25 property or fixtures would otherwise become
26 unenforceable by reason of Section 726 of the Code of
27 Civil Procedure or any requirement that a creditor resort
28 first to its security, then, notwithstanding that section or
29 any similar requirement, the obligation shall nevertheless
30 remain enforceable to the full extent necessary to permit
31 a secured party to proceed against personal property or
32 fixtures securing the obligation in accordance with the
33 secured party's rights and remedies as permitted under
34 this chapter.

35 (c) (i) Paragraph (b) does not limit the application of
36 Section 580b of the Code of Civil Procedure.

37 (ii) If the secured party commences an action, as
38 defined in Section 22 of the Code of Civil Procedure, and
39 the action seeks a monetary judgment on the debt,
40 paragraph (b) does not prevent the debtor's assertion of



1 any right to require the inclusion in the action of any
2 interest in real property or an estate therein securing the
3 debt. If a monetary judgment on the debt is entered in the
4 action, paragraph (b) does not prevent the debtor's
5 assertion of the subsequent unenforceability of the
6 encumbrance on any interest in real property or an estate
7 therein securing the debt and not included in the action.

8 (iii) Nothing in paragraph (b) shall be construed to
9 excuse compliance with Section 2924c of the Civil Code
10 as a prerequisite to the sale of real property, but that
11 section has no application to the right of a secured party
12 to proceed as to personal property or fixtures except, and
13 then only to the extent that, the secured party is
14 proceeding as to personal property or fixtures in a unified
15 sale as provided in subparagraph (ii) of paragraph (a).

16 (iv) Paragraph (b) does not deprive the debtor of the
17 protection of Section 580d of the Code of Civil Procedure
18 against a deficiency judgment following a sale of the real
19 property collateral pursuant to a power of sale in a deed
20 of trust or mortgage.

21 (v) Paragraph (b) shall not affect, nor shall it
22 determine the applicability or inapplicability of, any law
23 respecting real property or obligations secured in whole
24 or in part by real property with respect to a loan or a
25 credit sale made to any individual primarily for personal,
26 family, or household purposes.

27 (vi) Paragraph (b) does not deprive the debtor of the
28 protection of Section 580a of the Code of Civil Procedure
29 following a sale of real property collateral.

30 (vii) If the secured party violates any statute or rule of
31 law that requires a creditor who holds an obligation
32 secured by an interest in real property or an estate
33 therein to resort first to its security before resorting to any
34 property of the debtor that does not secure the obligation,
35 paragraph (b) does not prevent the debtor's assertion of
36 any right to require correction of the violation, any right
37 of the secured party to correct the violation, or the
38 debtor's assertion of the subsequent unenforceability of
39 the encumbrance on any interest in real property or an
40 estate therein securing the obligation, or the debtor's



1 assertion of the subsequent unenforceability of the
2 obligation except to the extent that the obligation is
3 preserved by subparagraph (ii) of paragraph (b).

4 (d) If the secured party realizes proceeds from the
5 disposition of collateral that is personal property or
6 fixtures, the following provisions shall apply:

7 (i) The disposition of the collateral, the realization of
8 the proceeds, the application of the proceeds, or any one
9 or more of the foregoing shall not operate to cure any
10 nonmonetary default.

11 (ii) The disposition of the collateral, the realization of
12 the proceeds, the application of the proceeds, or any one
13 or more of the foregoing shall not operate to cure any
14 monetary default (although the application of the
15 proceeds shall, to the extent of those proceeds, satisfy the
16 secured obligation) so as to affect in any way the secured
17 party's rights and remedies under this chapter with
18 respect to any remaining personal property or fixtures
19 collateral.

20 (iii) All proceeds so realized shall be applied by the
21 secured party to the secured obligation in accordance
22 with the agreement of the parties and applicable law.

23 (e) An action by the secured party utilizing any
24 available judicial procedure, as provided in subdivision
25 (1), shall in no way be affected by omission of a prayer for
26 a monetary judgment on the debt. Notwithstanding
27 Section 726 of the Code of Civil Procedure, any
28 prohibition against splitting causes of action or any other
29 statute or rule of law, a judicial action that neither seeks
30 nor results in a monetary judgment on the debt shall not
31 preclude a subsequent action seeking a monetary
32 judgment on the debt or any other relief.

33 (f) As used in this subdivision, "monetary judgment on
34 the debt" means a judgment for the recovery from the
35 debtor of all or part of the principal amount of the secured
36 obligation, including, for purposes of this subdivision,
37 contractual interest thereon. "Monetary judgment on the
38 debt" does not include a judgment that provides only for
39 other relief (whether or not that other relief is secured by
40 the collateral), such as one or more forms of nonmonetary



1 relief, and monetary relief ancillary to any of the
2 foregoing, such as attorneys' fees and costs incurred in
3 seeking the relief.

4 (g) If a secured party fails to comply with the
5 procedures applicable to real property in proceeding as
6 to both real and personal property under subparagraph
7 (ii) of paragraph (a), a purchaser for value of any interest
8 in the real property at judicial or nonjudicial foreclosure
9 proceedings conducted pursuant to subparagraph (ii) of
10 paragraph (a) takes that interest free from any claim or
11 interest of another person, or any defect in title, based
12 upon that noncompliance, unless:

13 (i) The purchaser is the secured party and the failure
14 to comply with this chapter occurred other than in good
15 faith; or

16 (ii) The purchaser is other than the secured party and
17 at the time of sale of the real property at that foreclosure
18 the purchaser had knowledge of the failure to comply
19 with this chapter and that the noncompliance occurred
20 other than in good faith.

21 Even if the purchaser at the foreclosure sale does not
22 take his or her interest free of claims, interests, or title
23 defects based upon that noncompliance with this chapter,
24 a subsequent purchaser for value who acquires an interest
25 in that real property from the purchaser at that
26 foreclosure takes that interest free from any claim or
27 interest of another person, or any defect in title, based
28 upon that noncompliance, unless at the time of acquiring
29 the interest the subsequent purchaser has knowledge of
30 the failure to comply with this chapter and that the
31 noncompliance occurred other than in good faith.

32 (h) If a secured party proceeds by way of a unified sale
33 under subparagraph (ii) of paragraph (a), then, for
34 purposes of applying Section 580a or subdivision (b) of
35 Section 726 of the Code of Civil Procedure to any such
36 unified sale, the personal property or fixtures included in
37 the unified sale shall be deemed to ~~the~~ *be* included in the
38 "real property or other interest sold," as that term is used
39 in Section 580a or subdivision (b) of Section 726 of the
40 Code of Civil Procedure.



1 (5) When a secured party has reduced his or her claim
 2 to judgment, the lien of any levy that may be made upon
 3 his or her collateral by virtue of any execution based upon
 4 the judgment shall relate back to the date of the
 5 perfection of the security interest in the collateral. A
 6 judicial sale, pursuant to that execution, is a foreclosure of
 7 the security interest by judicial procedure within the
 8 meaning of this section, and the secured party may
 9 purchase at the sale and thereafter hold the collateral free
 10 of any other requirements of this division.

11 (6) This section shall be repealed on January 1, 1999.

12 SEC. 17. The heading of Chapter 15 (commencing
 13 with Section 11400) of Part 7 of the Education Code is
 14 repealed.

15

16 ~~CHAPTER 15. BLUE RIBBON BIOTECHNOLOGY~~
 17 ~~CURRICULUM ADVISORY COMMITTEE~~

18

19 SEC. 18. Section 15320 of the Education Code is
 20 amended to read:

21 15320. Whenever the governing board of a school
 22 district meeting the requirements set forth in Section
 23 15301 determines that a school facilities improvement
 24 district is necessary, the governing board shall adopt a
 25 resolution of intention that states all of the following:

26 (a) The intention of the governing board to form the
 27 proposed school facilities improvement district.

28 (b) The purpose for which the proposed school
 29 facilities improvement district is to be formed, consistent
 30 with the requirements set forth in Section 15302.

31 (c) The estimated cost of the school facilities
 32 improvement project.

33 (d) That any taxes levied for the purpose of financing
 34 the general obligation bonds issued to finance the project
 35 shall be levied exclusively upon the lands in the proposed
 36 school facilities improvement district.

37 (e) That a map showing the exterior boundaries of the
 38 proposed school facilities improvement district is on file
 39 with the governing board of the school district and is
 40 available for inspection by the public. The boundaries of



1 the school facilities improvement district shall meet the
2 requirements set forth in subdivision (b) of Section 15301.

3 (f) The time and place for a hearing by the governing
4 board on the formation of the proposed school facilities
5 improvement district.

6 ~~(h)~~

7 (g) That any interested persons, including all persons
8 owning lands in the school district or in the proposed
9 school facilities improvement district, may appear and be
10 heard.

11 SEC. 19. Section 19336 of the Education Code is
12 amended to read:

13 19336. The State Librarian shall establish the Reading
14 Initiative Program with funds appropriated for that
15 purpose and with funds received from private sources.
16 The State Librarian shall administer the program ~~and, for~~
17 ~~which purpose he or she shall have do all of~~ the following
18 ~~duties~~:

19 (a) ~~Developing~~ *Develop* a list of recommended books,
20 in consultation with various groups, including, but not
21 limited to, teachers, librarians, parents, writers,
22 publishers, and employees of the State Department of
23 Education. The recommended books shall supplement
24 the state-recommended English/language arts
25 curriculum framework, and shall include recreational
26 reading selections for children.

27 (b) ~~Developing~~ *Develop* a method of involving pupils
28 enrolled in kindergarten and grades 1 to 12, inclusive, in
29 the program and an appropriate form of recognition for
30 ~~participating~~ pupils who volunteer to participate in the
31 program and who succeed in the program. Rewards and
32 related recognition activities shall be funded with
33 amounts received from private sources.

34 (c) To the extent private funds are available, and
35 consistent with subdivision (b), *expend* private funds
36 received by the State Librarian for the purposes of this
37 article ~~shall be expended~~ to obtain and make available to
38 the public the books on the list developed pursuant to
39 subdivision (a) ~~of Section 19336~~.



1 SEC. 20. Section 48664 of the Education Code is
2 amended to read:

3 48664. (a) In addition to funds from all other sources,
4 the Superintendent of Public Instruction shall apportion
5 to each school district that operates a community day
6 school one thousand five hundred dollars (\$1,500) per
7 year; for each unit of average daily attendance reported
8 at the annual apportionment for pupil attendance at
9 community day schools. Average daily attendance
10 reported for this program shall not exceed 0.375 percent
11 of a district's prior year P2 average daily attendance in an
12 elementary school district, 0.5 percent of a district's prior
13 year P2 average daily attendance in a unified school
14 district, or 0.625 percent of a district's prior year P2
15 average daily attendance in a high school district. The
16 Superintendent of Public Instruction may reallocate to
17 any school district any unexpended balance of the
18 appropriations made for the purposes of this subdivision
19 for actual pupil attendance in excess of the percentage
20 specified in this subdivision for the school district in an
21 amount not to exceed one-half of that percentage.
22 However, the average daily attendance generated by
23 pupils expelled pursuant to subdivision (d) of Section
24 48915, shall not be subject to these percentage caps on
25 average daily attendance.

26 (b) In calculating the average daily attendance for a
27 community day school, the school district shall use a
28 divisor of 180 even if the community day school has a
29 school year in excess of 180 days.

30 (c) The Superintendent of Public Instruction shall
31 apportion to each school district that operates a
32 community day school a sum equal to one dollar and forty
33 cents (\$1.40) multiplied by the total of the number of
34 hours each schoolday, up to a maximum of two hours
35 daily, that each community day school pupil remains at
36 the community day school under the supervision of a
37 school district employee following completion of the full
38 six-hour instructional day.

39 (d) It is the intent of the Legislature that districts
40 enter into consortia, as feasible, for the purpose of



1 providing community day school programs. Any school
2 district with fewer than 2,501 units of average daily
3 attendance may request a waiver for any fiscal year of the
4 funding limitations ~~defined in this section~~ *established by*
5 *subdivision (a)*. The Superintendent of Public Instruction
6 shall approve a waiver if he or she deems it necessary in
7 order to permit the operation of a community day school
8 of reasonably comparable quality to those offered in
9 school ~~district districts~~ with 2,501 or more units of average
10 daily attendance. In no event shall the amount allocated
11 pursuant to a waiver exceed the amount provided for one
12 teacher pursuant to Section 42284, for pupils enrolled in
13 kindergarten and grades 1 to 6, inclusive, or the amount
14 provided for one teacher pursuant to Section 42284, for
15 pupils enrolled in grades 7 to 12, inclusive. ~~The provisions~~
16 ~~of this act shall~~ *This article does not apply to any school*
17 *district that applied for a waiver within the funding limits*
18 *established by this subdivision but was denied funding or*
19 *not fully funded.*

20 (e) The State Department of Education shall evaluate
21 and report to the appropriate legislative policy
22 committees and budget committees on or before October
23 1, 1998, and *annually* for two years thereafter, *all of the*
24 *following* ~~programmatic and fiscal issues~~:

- 25 (1) The number of expulsions statewide.
- 26 (2) The number of school districts operating
27 community day schools.
- 28 (3) ~~Status~~ *The status* of the countywide plans as
29 ~~defined in~~ *required by* Section 48926.
- 30 (4) An evaluation of the community day school
31 average daily attendance funding percentage cap.
- 32 (5) ~~Number~~ *The number* of small school districts
33 requesting, and the number receiving, a waiver under
34 this section.
- 35 (6) The effect of hourly accounting under Section
36 48663 ~~for purposes of receiving the additional~~ *upon the*
37 *apportionment of funding under* ~~Section 48664~~ *this*
38 *section.*
- 39 (7) The number of pupils and average daily
40 attendance served in community day programs, ~~further~~



1 identified as the number expelled pursuant to subdivision
2 (d) of Section 48915, subdivision (b) of Section 48915, *or*
3 other expulsion criteria, or referred through a formal
4 district process.

5 (8) Pupil outcome data and other data as required
6 under Section 48916.1.

7 (9) Other programmatic or fiscal matters as
8 determined by the State Department of Education.

9 (f) The additional funds ~~provided in~~ *authorized by*
10 subdivisions (a), (c), and (d) shall ~~only~~ be ~~allocated~~
11 *apportioned only* to the extent that funds are
12 appropriated for this purpose in the annual Budget Act
13 or other legislation, or both, except *that*, for pupils
14 expelled pursuant to subdivision (d) of Section 48915. ~~For~~
15 ~~pupils expelled pursuant to subdivision (d) of Section~~
16 ~~48915~~, the funds apportioned under subdivision (a) are
17 continuously appropriated from the General Fund to
18 Section A of the State School Fund.

19 SEC. 21. Section 58552 of the Education Code is
20 amended to read:

21 58552. (a) In order to obtain certification as an
22 educational clinic from the Superintendent of Public
23 Instruction, each private educational institution shall
24 submit an application to the superintendent
25 documenting compliance with all of the following
26 requirements:

27 (1) The applicant qualifies as an educational clinic
28 ~~within the meaning of, as defined by~~ subdivision ~~(d)~~ (c)
29 of Section 58551.

30 (2) The applicant offers instruction in basic academic
31 skills, employment orientation, and reentry orientation,
32 as defined ~~in~~ *by* Section 58551.

33 (3) The applicant operates on a clinical,
34 client-centered basis, as defined by subdivision ~~(e)~~ (b) of
35 Section 58551.

36 (4) The applicant will produce educational gains
37 among pupils ~~which~~ *that* directly relate to the identified
38 individual learning objectives and educational or
39 employment goals.



1 (5) The applicant maintains accurate and complete
2 financial and personnel records.

3 (b) Private educational institutions seeking
4 certification by the Superintendent of Public Instruction
5 as educational clinics shall submit applications upon
6 forms designated for that purpose which shall include
7 documentation verifying that the applicant meets each of
8 the requirements prescribed by subdivision (a). The
9 superintendent shall notify each applicant of its
10 certification status within five weeks after the receipt of
11 the completed application.

12 (c) Each private educational institution approved for
13 certification as an educational clinic by the
14 Superintendent of Public Instruction shall be certified for
15 a period not to exceed three years. When its initial
16 certification expires, ~~each approved~~ *an* educational clinic
17 may apply for a renewal of its certification.

18 (d) Any changes in the operation of the educational
19 clinic that are relevant to the certification criteria
20 prescribed ~~in~~ *by* subdivision (a) shall be approved in
21 writing by the Superintendent of Public Instruction
22 before the change is ~~deemed to be in~~ *takes* effect.

23 (e) The Superintendent of Public Instruction may
24 withdraw certification from any approved educational
25 clinic if it is determined that any of the following
26 conditions ~~exist~~ *exists*:

27 (1) The educational clinic does not provide adequate
28 instruction in basic academic skills, as defined ~~in~~ *by*
29 subdivision (a) of Section 58551.

30 (2) ~~Student~~ *Pupil* performance data do not
31 substantiate educational gains for pupils ~~which~~ *that*
32 directly relate to the identified individual learning
33 objectives and the educational or employment goals.

34 (3) The educational clinic does not provide
35 opportunities for employment orientation or reentry
36 orientation ~~in accordance with the requirements of~~ *as*
37 *required* by this chapter.

38 (4) The educational clinic fails to meet any of the
39 criteria for certification prescribed by subdivision (a).



1 (f) The ratio of pupils to professional staff members for
2 ~~an~~ *a certified* educational clinic ~~may~~ *shall* not exceed 20
3 to 1.

4 SEC. 22. Section 58751 of the Education Code is
5 amended to read:

6 58751. ~~For~~ *The following definitions apply for the*
7 *purposes of this chapter, the following terms shall have*
8 ~~the following meanings:~~

9 (a) “Applicant” means a local education agency that
10 may collaborate with a nonprofit organization, private
11 child care provider, park and recreation agency, or other
12 public agency and that is applying for a grant pursuant to
13 this chapter.

14 (b) “Local education agency” means *a school districts*
15 *district, county—superintendents superintendent* of
16 schools, or a consortium of those entities.

17 (c) “Nonprofit organization” means any private
18 nonprofit organization that provides coordinated
19 educational and human services to schoolage children,
20 ~~that~~ qualifies for exempt status under paragraph (3) of
21 subsection (c) of Section 501 of the United States Internal
22 Revenue Code of 1986, and ~~that~~ *is working* or will work
23 in cooperation with a local education agency in operating
24 a program pursuant to this chapter.

25 (d) “Volunteer” means any person willing and able to
26 donate time, energy, and skills to *the* tasks and duties
27 ~~needed~~ *necessary* to ~~run~~ *operate* an extended schoolday
28 program. Volunteers shall be adults or older pupils, other
29 than those pupils being served by the program.

30 Notwithstanding any other *provision of* law, any
31 volunteer staff person or employee who has frequent and
32 routine contact with the participants ~~of—the~~ *in an*
33 extended schoolday program *that is* not covered under
34 Chapter 3.4 (commencing with Section 1596.70),
35 Chapter 3.5 (commencing with Section 1596.90), ~~and~~ *or*
36 Chapter 3.6 (commencing with Section 1597.30) of
37 Division 2 of the Health and Safety Code, and ~~who does~~
38 not possess a valid state teaching credential, shall submit,
39 on or before the first day of his or her service, two sets of
40 fingerprints to the Department of Justice for the purpose



1 of obtaining a criminal record summary from the
2 Department of Justice and the Federal Bureau of
3 Investigation. The Department of Justice shall return a
4 criminal record summary to the grant recipient. The
5 grant recipient shall use the substantive rules of Section
6 1596.871 of the Health and Safety Code to guide it in
7 *determining* the retention of the volunteer or employee.
8 ~~In determining who has~~ *A volunteer shall not be deemed*
9 *to have* frequent and routine contact, ~~any volunteer shall~~
10 ~~be exempt~~ *for this purpose* unless the volunteer is given
11 sole charge for the care and supervision of children
12 without staff assistance or supervision.

13 SEC. 23. Section 60242 of the Education Code is
14 amended to read:

15 60242. (a) The state board shall encumber the fund
16 for the purpose of establishing an allowance for each
17 district board, which may ~~include consideration of~~ *reflect*
18 increases or decreases in average daily attendance, that
19 the district board may use for the following purposes:

20 (1) To purchase instructional materials adopted by the
21 state board.

22 (2) To purchase instructional materials, including, but
23 not limited to, technology-based materials, from any
24 source.

25 (3) To purchase tests.

26 (4) To bind basic textbooks that are otherwise usable
27 and are on the most recent list of basic instructional
28 materials adopted by the state board and made available
29 pursuant to Section 60200.

30 (5) To fund in-service training.

31 ~~The~~

32 (b) *The* state board shall specify the percentage of a
33 district board's allowance *that is* authorized to be used for
34 each of the ~~above~~ purposes *identified in subdivision (a)*.

35 (c) Allowances established for school districts
36 pursuant to this section shall be apportioned in
37 September of each fiscal year.

38 SEC. 24. Section 84751 of the Education Code is
39 amended to read:



1 84751. In calculating each community college
2 district's revenue level for each fiscal year pursuant to
3 subdivision (a) of Section 84750, the chancellor shall
4 subtract, from the total revenues owed, all of the
5 following:

6 (a) The local property tax revenue specified by law for
7 general operating support, exclusive of bond interest and
8 redemption.

9 (b) Ninety-eight percent of the fee revenues collected
10 pursuant to ~~Section Sections~~ 76300 and 76330.

11 (c) Motor vehicle license fees received pursuant to
12 Section 11003.4 of the Revenue and Taxation Code.

13 (d) Timber yield tax revenue received pursuant to
14 Section 38905 of the Revenue and Taxation Code.

15 (e) Any amounts received pursuant to Section
16 33492.15, 33607.5, or 33607.7 of the Health and Safety
17 Code, and Section 33676 of the Health and Safety Code as
18 amended by Section 2 of Chapter 1368 of the Statutes of
19 1990, that are considered to be from property tax
20 revenues pursuant to those sections for the purposes of
21 community college revenue levels, except those amounts
22 that are allocated exclusively for educational facilities.

23 (f) Ninety-eight percent of the revenues received
24 through collection of a student fee from a student
25 enrolled in the district who registered or enrolled
26 between July 1, 1995, and ~~the date this act becomes~~
27 ~~operative August 3, 1995.~~

28 SEC. 25. Section 8051.2 of the Fish and Game Code is
29 amended to read:

30 8051.2. (a) The landing tax collected pursuant to
31 Section 8051.1 shall be deposited in the Fish and Game
32 Preservation Fund and 60 percent of the revenue
33 deposited shall be used solely for the Sea Urchin
34 Resources Enhancement Program in support of the
35 recommendations of the committee established by
36 subdivision (c) and other sea urchin resource
37 enhancement measures as provided in the annual Budget
38 Act. The remaining 40 percent of the revenue shall be
39 used solely for research and management activities to
40 monitor and maintain the sea urchin resource. The



1 department shall maintain internal accountability
2 necessary to ensure that all restrictions on the
3 expenditure of Sea Urchin Resources Enhancement
4 Program funds and research and management funds are
5 met.

6 (b) The revenues received pursuant to former
7 subdivision (b) of Section 8051.1, as that section read on
8 December 31, 1995, shall first be used for the grant and
9 departmental overhead charges, as provided in Section
10 1068, and any remaining revenues shall be used for sea
11 urchin enhancement as ~~provided~~ *described in*
12 subdivision (a).

13 (c) An amount, not to exceed 15 percent of the
14 allocations made pursuant to subdivision (a) from the
15 total annual revenues deposited in the fund pursuant to
16 subdivision (a), may be used by the department for the
17 administration of the Sea Urchin Resources
18 Enhancement Program, including any reasonable and
19 necessary expenses.

20 (d) The Commercial Sea Urchin Advisory Committee
21 in existence on October 14, 1991, which consists of 12
22 members, shall be continued in existence and renamed
23 the Director's Sea Urchin Advisory Committee. One
24 member shall be selected by the director from the
25 personnel of the department. Ten members, who shall
26 serve at the pleasure of the director for a term of not more
27 than two years and who may be reappointed, shall be
28 selected by the director from nominations submitted by
29 sea urchin fishermen and processors and by associations
30 representing the commercial sea urchin industry of
31 California. Five of the industry members shall represent
32 processors and five of the industry members shall
33 represent divers. ~~All~~ *Each* of the diver representatives
34 shall hold *a* valid sea urchin diving ~~permits~~ *permit*. Two
35 of the diver representatives shall be from northern
36 California, and three of the diver representatives shall be
37 from southern California. One of the diver
38 representatives from southern California shall reside in
39 Santa Barbara County, one in Ventura County, and one
40 in either Los Angeles County or San Diego County. All of



1 the California diver representatives shall reside in
2 different geographical areas of the state. Each diver
3 representative shall select an alternate, approved by the
4 director, who may act in that representative's absence.
5 The alternate is not required to hold a current sea urchin
6 diving permit and may reside in any geographical area in
7 the state. The area marine coordinator from the
8 University of California at Davis shall be the other
9 member.

10 From the money available to the Sea Urchin Resource
11 Enhancement Program, the committee may annually
12 submit to the department proposed projects and a budget
13 for the program. The department, after conducting a
14 public review and discussion, shall incorporate all or part
15 of the proposed projects and budget recommendations in
16 its submittal to the Governor's Budget.

17 (e) This section shall remain in effect only until
18 January 1, 2002, and as of that date is repealed, unless a
19 later enacted statute, which is enacted before January 1,
20 2002, deletes or extends that date.

21 SEC. 26. Section 8280.5 of the Fish and Game Code is
22 amended to read:

23 8280.5. (a) The director shall convene a Dungeness
24 crab review panel for the purpose of reviewing
25 applications for Dungeness crab vessel permits pursuant
26 to paragraphs (2) and (4) of subdivision (b) of Section
27 8280.1 and applications for permit transfers pursuant to
28 Section 8280.3 if the department determines that the
29 additional review and advice of the panel will be helpful
30 in deciding whether to issue a permit or approve a
31 transfer.

32 (b) The panel shall consist of one nonvoting
33 representative of the department and three public voting
34 members selected by the director to represent the
35 Dungeness crab fishing industry. One public member
36 shall be licensed pursuant to Article 7 (commencing with
37 Section 8030) and active in Dungeness crab processing in
38 this state. Two public members shall be licensed pursuant
39 to Section 7852, one from Sonoma County or a county
40 south of Sonoma County, and one from Mendocino



1 County or a county north of Mendocino County, and
2 active in the ~~take~~ *taking* and landing of Dungeness crab
3 in this state. The public members shall be reimbursed for
4 their necessary and proper expenses to participate on the
5 panel. A public member shall serve on the panel for not
6 more than four consecutive years.

7 (c) The panel may conduct its review of applications
8 referred to it by mail or teleconference.

9 (d) The panel shall review each application for a
10 permit or permit transfer referred to it by the
11 department and shall consider all oral and written
12 evidence presented by the applicant that is pertinent to
13 the application under review. If the panel recommends
14 issuance of a permit or approval of the transfer, the
15 department may issue a Dungeness crab vessel permit
16 pursuant to Section 8280.1 or approve a permit transfer
17 pursuant to Section 8280.3.

18 (e) All appeals of denials of Dungeness crab vessel
19 permits shall be made to the commission and may be
20 heard by the commission if the appeal of denial is filed in
21 writing with the commission not later than 90 days of the
22 date of a permit denial. The commission may order the
23 department to issue a permit upon appeal if the
24 commission finds that the appellant qualified for a permit
25 under this chapter.

26 (f) This section shall become inoperative on April 1,
27 2001, and, as of January 1, 2002, is repealed, unless a later
28 enacted statute, which becomes effective on or before
29 January 1, 2002, deletes or extends the dates on which it
30 becomes inoperative and is repealed.

31 SEC. 27. Section 24014 of the Food and Agricultural
32 Code is amended to read:

33 24014. It is ~~hereby declared, as a matter of legislative~~
34 ~~determination, the intent of the Legislature~~ that each of
35 the persons appointed to the advisory committee
36 pursuant to Section ~~24013~~ *are intended to* 24013.5
37 represent and further the ~~interest~~ *interests* of a ~~particular~~
38 ~~the industry concerned~~ *that person is selected to*
39 ~~represent,~~ and that ~~such~~ *this* representation and
40 furtherance ~~is intended to~~ serve the public interest.



1 Accordingly, the Legislature finds that, with respect to
2 ~~persons~~ *each person* who ~~are~~ *is* appointed to ~~such the~~
3 committee, the ~~particular~~ industry ~~concerned~~
4 *represented* is tantamount to, and constitutes, the public
5 generally within the meaning of Section 87103 of the
6 Government Code.

7 SEC. 28. Section 6518 of the Government Code is
8 amended to read:

9 6518. (a) A joint powers agency, without being
10 subject to any limitations of any party to the joint powers
11 agreement pursuant to Section 6509, may also finance or
12 refinance the acquisition or transfer of transit equipment
13 or transfer federal income tax benefits with respect to any
14 transit equipment by executing agreements, leases,
15 purchase agreements, and equipment trust certificates in
16 the forms customarily used by a private corporation
17 engaged in the transit business to effect purchases of
18 transit equipment, and dispose of the equipment trust
19 certificates by negotiation or public sale upon terms and
20 conditions authorized by the parties to the agreement.
21 Payment for transit equipment, or rentals therefor, may
22 be made in installments, and the deferred installments
23 may be evidenced by equipment trust certificates
24 payable from any source or sources of funds specified in
25 the equipment trust certificates that are authorized by
26 the parties to the agreement. Title to the transit
27 equipment shall not vest in the joint powers agency until
28 the equipment trust certificates are paid.

29 (b) An agency ~~which~~ *that* finances or refinances
30 transit equipment or transfers federal income tax benefits
31 with respect to transit equipment under subdivision (a)
32 may provide in the agreement to purchase or lease transit
33 equipment any of the following:

34 (1) A direction that the vendor or lessor shall sell and
35 assign or lease the transit equipment to a bank or trust
36 company, duly authorized to transact business in the state
37 as trustee, for the benefit and security of the equipment
38 trust certificates.



1 (2) A direction that the trustee shall deliver the transit
2 equipment to one or more designated officers of the
3 entity.

4 (3) An authorization for the joint powers agency to
5 execute and deliver simultaneously therewith an
6 installment purchase agreement or a lease of equipment
7 to the joint powers agency.

8 (c) An agency ~~which~~ *that* finances or refinances
9 transit equipment or transfers federal income tax benefits
10 with respect to transit equipment under subdivision (a)
11 shall do all of the following:

12 (1) Have each agreement or lease duly acknowledged
13 before a person authorized by law to take
14 ~~acknowledgements~~ *acknowledgments* of deeds and be
15 acknowledged in the form required for
16 ~~acknowledgement~~ *acknowledgment* of deeds.

17 (2) Have each agreement, lease, or equipment trust
18 certificate authorized by resolution of the joint powers
19 agency.

20 (3) Include in each agreement, lease, or equipment
21 trust certificate any covenants, conditions, or provisions
22 ~~which~~ *that* may be deemed necessary or appropriate to
23 ~~insure~~ *ensure* the payment of the equipment trust
24 certificate from legally available sources of funds, as
25 specified in the equipment trust certificates.

26 (4) Provide that the covenants, conditions, and
27 provisions of an agreement, lease, or equipment trust
28 certificate do not conflict with any of the provisions of any
29 trust agreement securing the payment of any bond, note,
30 or certificate of the joint powers agency.

31 (5) File an executed copy of each agreement, lease, or
32 equipment trust certificate in the office of the Secretary
33 of State, and pay the fee, not to exceed one dollar (\$1), for
34 each copy filed.

35 (d) The Secretary of State may charge a fee, not to
36 exceed one dollar (\$1) for the filing of an agreement,
37 lease, or equipment trust certificate under this section.
38 The agreement, lease, or equipment trust certificate shall
39 be accepted for filing only if it expressly states thereon in
40 an appropriate manner that it is filed under the provisions



1 of this section. The filing constitutes notice of the
2 agreement, lease, or equipment trust certificate to any
3 subsequent judgment creditor or any subsequent
4 purchaser.

5 (e) Each vehicle purchased or leased under this
6 section shall have the name of the owner or lessor plainly
7 marked on both sides thereof followed by the appropriate
8 words “Owner and Lessor” or “Owner and Vendor,” as
9 the case may be.

10 SEC. 29. Section 6599 of the Government Code is
11 amended and renumbered to read:

12 ~~6599.~~

13 6598.5. Local agencies may request advice from the
14 California Debt Advisory Commission pursuant to
15 Section 8859 regarding the formation of local bond
16 pooling authorities and the planning, preparing, insuring,
17 marketing, and selling of bonds as authorized pursuant to
18 this article.

19 SEC. 30. Section 6599.1 of the Government Code is
20 amended and renumbered to read:

21 ~~6599.1.~~

22 6598.6. (a) The legislative body shall, no later than 30
23 days prior to the sale of any bonds pursuant to this article,
24 give written notice of the proposed sale to the California
25 Debt Advisory Commission by mail, postage prepaid, as
26 required by Chapter 12 (commencing with Section 8885)
27 of Division 1 of Title 2.

28 (b) Beginning January 1, 1996, each year after the sale
29 of any bonds by the authority for the purpose of acquiring
30 local obligations, the legislative body shall, not later than
31 October 30 of each year until the final maturity of the
32 bonds, supply the following information to the California
33 Debt Advisory Commission by mail, postage prepaid:

34 (1) The principal amount of bonds outstanding, both
35 authority bonds and local obligations acquired with the
36 proceeds of authority bonds.

37 (2) The balance in the reserve fund.

38 (3) The costs of issuance, including any ongoing fees.

39 (4) The total amount of administrative fees collected.



1 (5) The amount of administrative fees charged to each
2 local obligation.

3 (6) The interest earnings and terms of all guaranteed
4 investment contracts.

5 (7) Commissions and fees paid on guaranteed
6 investment contracts.

7 (8) The delinquency rates on all local obligations.

8 (9) The balance in capitalized interest accounts.

9 (c) In addition, with respect to any bonds sold
10 pursuant to this article, regardless of when sold, and until
11 the final maturity of the bonds, the legislative body shall
12 notify the California Debt Advisory Commission by mail,
13 postage prepaid, within 10 days if any of the following
14 events ~~occur~~ occurs:

15 (1) The local agency or its trustee fails to pay principal
16 and interest due on any scheduled payment date.

17 (2) Funds are withdrawn from a reserve fund to pay
18 principal and interest on the bonds issued by the
19 authority or any bonds acquired by the authority.

20 (d) Neither the legislative body nor the California
21 Debt Advisory Commission shall be liable for any
22 inadvertent error in reporting the information required
23 by this section.

24 SEC. 31. Section 8546 of the Government Code is
25 amended to read:

26 8546. It is the intent of the Legislature that the Bureau
27 of State Audits have the independence necessary to
28 conduct all of its audits in conformity with “Government
29 Auditing Standards” published by the Comptroller
30 General of the United States and the standards published
31 by the American Institute of Certified Public
32 Accountants, free from influence of existing state control
33 agencies that could be the subject of audits conducted by
34 the bureau. Therefore, all of the following exclusions
35 apply to the office:

36 (a) Notwithstanding Section 19790, the State Auditor
37 shall establish an affirmative action program ~~which that~~
38 shall meet the criteria and objectives established by the
39 State Personnel Board and shall report annually to the
40 State Personnel Board and the commission.



1 (b) Notwithstanding Section 12470, the State Auditor
2 shall be responsible for maintaining its payroll system. In
3 lieu of audits of the uniform payroll system performed by
4 the Controller or any other department, the office shall
5 contract pursuant to subdivision ~~(2)~~ (e) of Section 8544.5
6 for an annual audit of its payroll and financial operations
7 by an independent public accountant.

8 (c) Notwithstanding Sections 11730 and 13292, the
9 State Auditor is delegated the authority to establish and
10 administer the fiscal and administrative policies of the
11 bureau in conformity with the State Administrative
12 Manual without oversight by the Department of Finance,
13 the Office of Information Technology, or any other state
14 agency.

15 (d) Notwithstanding Section 11032, the State Auditor
16 may approve actual and necessary traveling expenses for
17 travel outside the state for officers and employees of the
18 bureau.

19 (e) Notwithstanding Section 11033, the State Auditor
20 or officers and employees of the bureau may be absent
21 from the state on business of the state upon approval of
22 the State Auditor or Chief Deputy State Auditor.

23 (f) Sections 11040, 11042, and 11043 shall not apply to
24 the Bureau of State Audits. The State Auditor may
25 employ legal counsel under those terms that he or she
26 deems necessary to conduct the legal business of, or
27 render legal counsel to, the State Auditor.

28 (g) The provisions and definitions of Section 11342
29 shall not be construed to include the Bureau of State
30 Audits. The State Auditor may adopt regulations
31 necessary for the operation of the bureau pursuant to the
32 provisions of the Administrative Procedure Act (Chapter
33 3.5 (commencing with Section 11340) of Division 3), but
34 these regulations shall not be subject to the review or
35 approval of the Office of Administrative Law.

36 (h) The State Auditor shall be exempt from all
37 contract requirements of the Public Contract Code that
38 require oversight, review, or approval by the
39 Department of General Services or any other state
40 agency. The State Auditor may contract on behalf of the



1 State of California for goods and services that he or she
2 deems necessary for the furtherance of the purposes of
3 the bureau.

4 (i) (1) Subject to Article VII of the California
5 Constitution, the State Auditor is delegated the authority
6 to establish and administer the personnel policies and
7 practices of the Bureau of State Audits in ~~conformity~~
8 *conformity* with Part 2.6 (commencing with Section
9 19815) of Division 5 of Title 2 without oversight or
10 approval by the Department of Personnel
11 Administration.

12 (2) At the election of the State Auditor, officers and
13 employees of the bureau may participate in benefits
14 programs administered by the Department of Personnel
15 Administration subject to the same conditions for
16 participation that apply to civil service employees in
17 other state agencies. For the purposes of benefits
18 programs administration only, the State Auditor is subject
19 to the determinations of the department. The Bureau of
20 State Audits shall reimburse the Department of
21 Personnel Administration for the normal administrative
22 costs incurred by the Department of Personnel
23 Administration and for any extraordinary costs resulting
24 from the inclusion of the bureau employees in these state
25 benefit programs.

26 SEC. 32. Section 8879.13 of the Government Code, as
27 added by Section 1 of Chapter 310 of the Statutes of 1995,
28 is amended to read:

29 8879.13. The bonds may be refunded in accordance
30 with Article 6 (commencing with Section 16780) of the
31 State *General* Obligation Bond Law. Approval by the
32 electors of this act shall constitute approval of any
33 refunding bonds issued pursuant to the State General
34 Obligation Bond Law.

35 SEC. 33. Section 8879.13 of the Government Code, as
36 added by Section 2 of Chapter 310 of the Statutes of 1995,
37 is amended to read:

38 8879.13. The bonds may be refunded in accordance
39 with Article 6 (commencing with Section 16780) of the
40 State *General* Obligation Bond Law. Approval by the



1 electors of this act shall constitute approval of any
2 refunding bonds issued pursuant to the State General
3 Obligation Bond Law.

4 SEC. 34. Section 8880.68 of the Government Code is
5 amended to read:

6 8880.68. (a) Except as provided in subdivision (b), no
7 state or local taxes shall be imposed upon the sale of
8 lottery tickets or shares of the lottery or any prize
9 awarded by the lottery.

10 (b) This section does not prohibit the imposition of
11 property taxes or license fees for any noncash prize that
12 is awarded by the lottery.

13 SEC. 35. Section 11354.1 of the Government Code is
14 amended to read:

15 11354.1. (a) For purposes of this section,
16 “commission” means the San Francisco Bay Conservation
17 and Development Commission.

18 (b) Except as provided in subdivision (d), this chapter
19 does not apply to any policy, plan, or guideline adopted
20 by the commission *prior to January 1, 1996*, pursuant to
21 Chapter 5 (commencing with Section 66650) of Title 7.2
22 of this code or Division 19 (commencing with Section
23 29000) of the Public Resources Code ~~prior to January 1,~~
24 ~~1996.~~

25 (c) The issuance or denial by the commission of any
26 permit pursuant to subdivision (a) of Section 66632, and
27 the issuance or denial by, or appeal to, the commission of
28 any permit pursuant to Chapter 6 (commencing with
29 Section 29500) of Division 19 of the Public Resources
30 Code, are not subject to this chapter.

31 (d) (1) Any amendments or other changes to the San
32 Francisco Bay Plan or to a special area plan pursuant to
33 Chapter 5 (commencing with Section 66650) of Title 7.2,
34 and amendments or other changes to the Suisun Marsh
35 Protection Plan, as defined in Section 29113 of the Public
36 Resources Code, or in the Suisun Marsh local protection
37 program, as defined in Section 29111 of the Public
38 Resources Code, adopted by the commission on and after
39 January 1, 1996, shall be submitted to the office.



1 (2) The commission shall include in its submittal to the
2 office pursuant to paragraph (1) both ~~all~~ of the following
3 documents:

4 (A) A clear and concise summary of any regulatory
5 provision adopted or approved by the commission as part
6 of the proposed change for publication in the California
7 Code of Regulations.

8 (B) The administrative record for the proceeding, and
9 a list of *the* documents relied upon in making the change.
10 Proposed additions to the plans shall be indicated by
11 underlined text, and proposed deletions shall be
12 indicated by ~~strike-through~~ *strike-through* text in
13 documents submitted as part of the administrative record
14 for the proceeding.

15 (3) The office shall review the regulatory provisions to
16 determine compliance with the standards of necessity,
17 authority, clarity, consistency, reference, and
18 nonduplication set forth in subdivision (a) of Section
19 11349.1. The office shall also review the responses to
20 public comments prepared by the commission to
21 determine compliance with the public participation
22 requirements of Sections 11000 to 11007, inclusive, of Title
23 14 of the California Code of Regulations, and to ensure
24 that the commission considers all relevant matters
25 presented to it before adopting, amending, or repealing
26 any regulatory provision, and that the commission
27 explains the reasons for not modifying a proposed plan
28 change to accommodate an objection or
29 recommendation. The office shall restrict its review to
30 the regulatory provisions and the administrative record
31 of the proceeding. Sections 11349.3, 11349.4, 11349.5, and
32 11350.3 shall apply to the review by the office to the extent
33 that those sections are consistent with this section.

34 (4) In reviewing proposed changes to the
35 commission's plans for the criteria specified in subdivision
36 (a) of Section 11349.1, the office shall consider the clarity
37 of the proposed plan change in the context of the
38 commission's existing plans.

39 (5) The proposed plan or program change subject to
40 this subdivision shall not become effective unless and



1 until the regulatory provisions are approved by the office
2 in accordance with subdivision (a) of Section 11349.3.

3 (6) Upon approval of the regulatory provisions, the
4 office shall transmit to the Secretary of State for filing the
5 clear and concise summary of the regulatory provisions
6 submitted by the commission.

7 (e) Except as provided in subdivisions (b) and (c), the
8 adoption of any regulation by the commission shall be
9 ~~fully~~ subject to this chapter *in all respects*.

10 SEC. 36. Section 11504 of the Government Code is
11 amended to read:

12 11504. A hearing to determine whether a right,
13 authority, license, or privilege should be granted, issued
14 or renewed shall be initiated by filing a statement of
15 issues. The statement of issues shall be a written
16 statement specifying the statutes and rules with which
17 the respondent must show compliance by producing
18 proof at the hearing, and in addition any particular
19 matters ~~which that~~ have come to the attention of the
20 initiating party and ~~which that~~ would authorize a denial
21 of the agency action sought. The statement of issues shall
22 be verified unless made by a public officer acting in his
23 official capacity or by an employee of the agency before
24 which the proceeding is to be held. The verification may
25 be on information and belief. The statement of issues shall
26 be served in the same manner as an accusation; ~~provided,~~
27 *except* that, if the hearing is held at the request of the
28 respondent, ~~the provisions of~~ Sections 11505 and 11506
29 shall not apply and the statement of issues together with
30 the notice of hearing shall be delivered or mailed to the
31 parties as provided in Section 11509. Unless a statement
32 to respondent is served pursuant to Section 11505, a copy
33 of Sections 11507.5, 11507.6, and 11507.7, and the name
34 and address of the person to whom requests permitted by
35 Section 11505 may be made, shall be served with the
36 statement of issues.

37 SEC. 37. Section 12173 of the Government Code, as
38 added by Section 2 of Chapter 426 of the Statutes of 1995,
39 is amended and renumbered to read:

40 ~~12173.~~



1 12174. (a) The Secretary of State shall administer,
2 protect, develop, and interpret the Secretary of State and
3 State Archives Building Complex located in Sacramento
4 in the area bounded by 10th, 11th, O, and P Streets as
5 authorized by Section 12235 for the use, education, and
6 enjoyment of the public.

7 (b) The Secretary of State may enter into an operating
8 agreement with a private, nonprofit, tax-exempt
9 organization, currently known as the California Archives
10 Foundation, the sole purpose of which is expressed in its
11 articles of incorporation and bylaws as the support of the
12 education, museum operations, and public service
13 programs of the State Archives and Museum. The
14 California Archives Foundation shall develop,
15 administer, interpret, and manage the State Archives
16 Museum and related public services by authority of the
17 Secretary of State as set forth in the operating agreement,
18 and acquire and fully manage funding for these programs
19 and services. Employees, volunteers, docents, members,
20 or others working with or for the private, nonprofit,
21 tax-exempt organization described in this subdivision; for
22 purposes consistent with the mission of that organization;
23 shall be considered volunteers under Sections 3118 and
24 3119 of this code and Section 3363.5 of the Labor Code.

25 (c) The Board of Trustees of the California Archives
26 Foundation shall include the Secretary of State and the
27 Chairperson of the California Heritage Preservation
28 Commission as ex officio members of the board. The
29 Board of Trustees of the California Archives Foundation
30 shall be the governing authority for operations funded
31 through moneys received by the California Archives
32 Foundation. The Board of Trustees of the California
33 Archives Foundation shall submit an audit report
34 annually to the Secretary of State. The board shall submit
35 copies of annual audit reports to the Director of Finance,
36 the Chair of the Joint Legislative Audit Committee, and
37 the Chair of the Joint Legislative Budget Committee. The
38 California Archives Foundation and the State Archives
39 shall function as a public-private partnership, not as
40 separate entities, and the Keeper of the Archives may



1 serve as the executive director of the California Archives
2 Foundation. No funds raised or assets acquired by the
3 California Archives Foundation shall be used for purposes
4 inconsistent with support of the public programs of the
5 State Archives and the State Archives Museum.

6 (d) No later than January 10 of each year, the
7 California Archives Foundation shall submit the
8 foundation business plan for the following fiscal year to
9 the Director of Finance and the Chair of the Joint
10 Legislative Budget Committee for review and comment.
11 The executive director of the foundation shall also submit,
12 30 days prior to board adoption, any proposed formal
13 amendments to the business plan to the Director of
14 Finance and the Chair of the Joint Legislative Budget
15 Committee for review and comment.

16 (e) Fees for copying, reproduction, and other services
17 provided by the State Archives shall be at a level
18 consistent with the costs of providing these services. The
19 Secretary of State may establish an agreement with the
20 *California Archives Foundation* to provide these services
21 and collect moneys for providing these services.

22 SEC. 38. Section 12805 of the Government Code is
23 amended to read:

24 12805. The Resources Agency consists of the State Air
25 Resources Board, the Colorado River Board, the State
26 Energy Resources Conservation and Development
27 Commission, the State Water Resources Control Board
28 and each California regional water quality control board,
29 the State Lands Commission, the Division of State Lands,
30 *the San Joaquin River Conservancy*, and the following
31 departments: Conservation; Fish and Game; Forestry and
32 Fire Protection; Navigation and Ocean Development;
33 Parks and Recreation; and Water Resources.

34 SEC. 39. Section 15399.22 of the Government Code is
35 amended to read:

36 15399.22. (a) Upon the effective date of the repeal of
37 Chapter 8.5 (commencing with Section 15399.10), all
38 money remaining in the Petroleum Underground
39 Storage Tank Financing Account and all subsequent loan
40 repayments shall revert to the Underground Storage



1 Tank Cleanup Fund in the General Fund, except that the
2 interest earnings specified in former Section 15399.20, as
3 that section read on the date that it was repealed, that are
4 necessary to support the administrative costs associated
5 with the collection of outstanding loan amounts, shall
6 remain with the Petroleum Underground Storage Tank
7 Financing Account and may be expended by the Trade
8 and Commerce Agency for those costs.

9 (b) The inoperation and repeal of Chapter 8.5
10 (commencing with Section 15399.10) shall not terminate
11 the following obligations or authorities necessary to
12 administer the obligations until ~~these~~ *all of the following*
13 obligations are satisfied:

14 (1) The payment of claims filed prior to the date that
15 Chapter 8.5 (commencing with Section 15399.10)
16 becomes inoperative, against the Underground Storage
17 Tank Cleanup Fund pursuant to Chapter 6.75
18 (commencing with Section 25299.10) of *Division 20* of the
19 Health and Safety Code, until the money in the fund is
20 exhausted. Upon exhaustion of the Underground Storage
21 Tank Cleanup Fund, any remaining claims shall be
22 invalid.

23 (2) The repayment of loans, outstanding as of the date
24 that Chapter 8.5 (commencing with Section 15399.10)
25 becomes inoperative, due and payable to the agency
26 under the terms of that former chapter.

27 (3) The resolution of any cost recovery action filed
28 prior to the date that Chapter 8.5 (commencing with
29 Section 15399.10) becomes inoperative, pursuant to
30 Chapter 6.75 (commencing with Section 25299.10) of
31 *Division 20* of the Health and Safety Code.

32 (c) This chapter shall become operative upon the
33 effective date of the repeal of Chapter 8.5 (commencing
34 with Section 15399.10).

35 SEC. 40. Section 19853.1 of the Government Code is
36 amended to read:

37 19853.1. (a) Notwithstanding Section 19853, this
38 section shall apply only to state employees in State
39 Bargaining Unit 5.



1 (b) Except as provided in subdivision (c), all
2 employees shall be entitled to the following holidays:
3 January 1, the third Monday in January, the third Monday
4 in February, the last Monday in May, July 4, the first
5 Monday in September, November 11, the day after
6 Thanksgiving, December 25, and every day appointed by
7 the Governor of this state for a public fast, Thanksgiving,
8 or holiday.

9 When a day herein listed falls on a Sunday, the
10 following Monday shall be deemed to be the holiday in
11 lieu of the day observed. If November 11 falls upon a
12 Saturday, the preceding Friday shall be deemed to be the
13 holiday in lieu of the day observed. Any employee who
14 may be required to work on any of the holidays herein
15 mentioned and who does work on any of these holidays,
16 shall be entitled to be paid compensation or given
17 compensating time off for that work in accordance with
18 ~~their~~ *his or her* classification's assigned workweek group.

19 (c) If the provisions of subdivision (b) are in conflict
20 with the provisions of a memorandum of understanding
21 reached pursuant to Section 3517.5, the memorandum of
22 understanding shall be controlling without further
23 legislative action, except that if the provisions of a
24 memorandum of understanding require the expenditure
25 of funds, the provisions shall not become effective unless
26 approved by the Legislature in the annual Budget Act.

27 (d) Any employee, who ~~is~~ either *is* excluded from the
28 definition of state employee in subdivision (c) of Section
29 3513, or is a nonelected officer or employee of the
30 executive branch of government who is not a member of
31 the civil service, ~~shall be~~ *is* entitled to the following
32 holidays, with pay, in addition to any official state holiday
33 appointed by the Governor:

34 (1) January 1, the third Monday in January, the third
35 Monday in February, the last Monday in May, July 4, the
36 first Monday in September, November 11, Thanksgiving
37 Day, the day after Thanksgiving, December 25.

38 (2) When November 11 falls on a Saturday, employees
39 shall be entitled to the preceding Friday as a holiday with
40 pay.



1 (3) When a holiday, other than a personal holiday, falls
2 on a Saturday, an employee shall, regardless of whether
3 he or she works on the holiday, ~~only~~ accrue *only* an
4 additional eight hours of personal holiday credit per fiscal
5 year for the holiday. The holiday credit shall be accrued
6 on the actual date of the holiday and shall be used within
7 the same fiscal year.

8 (4) When a holiday other than a personal holiday falls
9 on Sunday, employees shall be entitled to the following
10 Monday as a holiday with pay.

11 (5) Employees who are required to work on a holiday
12 shall be entitled to pay or compensating time off for this
13 work in accordance with their classifications' assigned
14 workweek group.

15 (6) ~~Less~~ *Persons employed on less than a full-time*
16 ~~employees~~ *basis* shall receive holidays in accordance with
17 the Department of Personnel Administration rules.

18 (e) Any employee, as defined in subdivision (c) of
19 Section 3513, may elect to use eight hours of vacation,
20 annual leave, or compensating time off consistent with
21 departmental operational needs and collective
22 bargaining agreements for March 31, known as "~~Cesar~~
23 "*Cesar Chavez Day.*"

24 (f) This section shall become effective only when the
25 Department of Personnel Administration notifies the
26 Legislature that the language contained in this section
27 has been agreed to by all the parties, and the necessary
28 statutes are amended to reflect this change for employees
29 excluded from the Ralph C. Dills Act (~~Ch.~~ *Chapter 10.3*
30 *(commencing with Section 3512), Div. Division 4-, Title*
31 *1).*

32 SEC. 41. Section 19854 of the Government Code is
33 amended to read:

34 19854. (a) Every employee, upon completion of six
35 months of his or her initial probationary period in state
36 service, shall be entitled to one personal holiday per fiscal
37 year. The personal holiday shall be credited to each
38 full-time employee on the first day of July. No employee
39 shall lose a personal holiday credit because of the change
40 from calendar to fiscal year crediting. The department



1 head or designee may require the employee to provide
 2 five working days' advance notice before a personal
 3 holiday is taken, and may deny use subject to operational
 4 needs. The department may provide by rule for the
 5 granting of this holiday for employees.

6 (b) If the provisions of this section are in conflict with
 7 the provisions of a memorandum of understanding
 8 reached pursuant to Section 3517.5, the memorandum of
 9 understanding shall be controlling without further
 10 legislative action, except that if the provisions of a
 11 memorandum of understanding require the expenditure
 12 of funds, the provisions shall not become effective unless
 13 approved by the Legislature in the annual Budget Act.

14 (c) This section does not apply to state employees in
 15 State Bargaining Unit 5.

16 (d) Subdivision (c) shall become effective only when
 17 the Department of Personnel Administration notifies the
 18 Legislature that the language contained in *that*
 19 subdivision ~~(e)~~ has been agreed to by all the parties, and
 20 the necessary statutes are amended to reflect this change
 21 for employees excluded from the Ralph C. Dills Act ~~(Ch.~~
 22 *Chapter 10.3* (commencing with Section 3512), ~~—Div.~~
 23 *Division 4, Title 1).*

24 SEC. 42. Section 29530.5 of the Government Code is
 25 amended to read:

26 29530.5. (a) Notwithstanding any other provision of
 27 this article, the Board of Supervisors of the County of
 28 Orange may, upon the adoption of a resolution approved
 29 by a majority of all of its members, unilaterally modify its
 30 contract, as specified in Section 29530 with the State
 31 Board of Equalization, to require that, effective on or
 32 after July 1, 1996, except to the extent that subdivision (b)
 33 applies during any period, county sales and use tax
 34 revenues specified in Section 29530 be deposited into the
 35 county general fund payable, on a monthly basis, in an
 36 amount equal to three million one hundred sixty-six
 37 thousand six hundred sixty-seven dollars (\$3,166,667).

38 (b) (1) If the county has elected to guarantee
 39 payment of its obligations under an agreement to finance
 40 the lease or lease-purchase of property through the



1 execution and delivery or issuance, as the case may be, of
2 certificates of participation or lease revenue bonds
3 pursuant to subdivision (a) of Section 25350.7, the
4 amounts required to be deposited in the general fund of
5 the county, in any month, pursuant to subdivision (a)
6 shall be reduced by the amounts, if any, transferred by the
7 Controller to the trustee for the certificates of
8 participation or lease revenue bonds; pursuant to
9 subdivision (a) of Section 25350.7.

10 (2) If the county has elected to guarantee *payment of*
11 its obligations—~~payment of~~ under an agreement to finance
12 the lease or lease-purchase of property through the
13 execution and delivery or issuance, as the case may be, of
14 certificates of participation or lease revenue bonds
15 pursuant to subdivision (b) of Section 25350.7, the
16 amounts required to be deposited in the general fund of
17 the county, in any month, pursuant to subdivision (a)
18 shall be reduced by the amounts transferred by the
19 Controller to the trustee for the certificates of
20 participation or lease revenue bonds; pursuant to
21 subdivision (b) of Section 25350.7.

22 (c) This section shall not take effect unless and until
23 (1) a plan of adjustment is confirmed in Case No.
24 SA-94-22272-JR in the United States Bankruptcy Court for
25 the Central District of California, or (2) a trustee is
26 appointed pursuant to Chapter 10 (commencing with
27 Section 30400).

28 (d) In enacting this section, the Legislature intends
29 that the provisions of ~~this act~~ *Chapter 746 of the Statutes*
30 *of 1995* shall not be utilized to justify reductions in existing
31 bus and paratransit services.

32 (e) The modification authorized by this section ~~is not~~
33 ~~applicable~~ *does not apply* to the City of Laguna Beach.

34 (f) This section shall become inoperative on July 1,
35 2011, and, as of January 1, 2012, is repealed, unless a later
36 enacted statute, that becomes operative on or before
37 January 1, 2012, deletes or extends the dates on which it
38 becomes inoperative and is repealed.

39 SEC. 43. Section 50022.5 of the Government Code is
40 amended to read:



1 50022.5. Nothing contained in this ~~statute~~ *article* shall
2 be deemed to relieve any local agency from the
3 requirement of publishing in full the ordinance ~~which~~
4 *that* adopts any ~~such~~ code, and all provisions applicable
5 to ~~such~~ *the* publication shall be fully carried out.

6 SEC. 44. Section 53069.8 of the Government Code is
7 amended to read:

8 53069.8. (a) ~~Except as provided by Section 1112 of~~
9 ~~the Labor Code, the~~ *The* board of supervisors of any
10 county may contract on behalf of the sheriff of that
11 county, and the legislative body of any city may contract
12 on behalf of the chief of police of that city, to provide
13 supplemental law enforcement services to private
14 individuals or private entities to preserve the peace at
15 special events or occurrences that happen on an
16 occasional basis. Contracts entered into ~~under the~~
17 ~~authority of~~ *pursuant to* this section shall provide for full
18 reimbursement to the county or city of the actual costs of
19 providing those services, as determined by the county
20 auditor, *or* auditor-controller, or by the city, as the case
21 may be.

22 (b) The services provided ~~under~~ *pursuant to* this
23 section shall be rendered by regularly appointed full-time
24 peace officers, as defined in Section 830.1 of the Penal
25 Code, or as negotiated with the respective certified
26 employee organizations.

27 (c) Peace officer rates of pay shall be governed by a
28 memorandum of understanding.

29 (d) A contract entered into pursuant to this section
30 shall encompass only law enforcement duties and not
31 services authorized to be provided by a private patrol
32 operator, as defined in Section ~~7521~~ *7582.1* of the Business
33 and Professions Code.

34 (e) ~~Contract~~ *Contracting* for law enforcement
35 services ~~permitted under,~~ *as authorized by* this section,
36 shall not reduce the normal and regular ongoing service
37 that the county, ~~or~~ agency of the county, or city ~~would~~
38 otherwise *would* provide ~~if the county or city did not~~
39 ~~contract for any law enforcement services allowed by this~~
40 ~~section.~~



1 SEC. 45. The heading of Title 7.91 (commencing with
2 Section 67910) of the Government Code is amended and
3 renumbered to read:

4
5 TITLE ~~7.91~~: 7.87. PLACER COUNTY
6 TRANSPORTATION PLANNING AGENCY
7

8 SEC. 46. The heading of Title 7.92 (commencing with
9 Section 67920) of the Government Code is amended and
10 renumbered to read:

11
12 TITLE ~~7.92~~: 7.88. NEVADA COUNTY
13 TRANSPORTATION PLANNING AGENCY
14

15 SEC. 47. The heading of Title 7.93 (commencing with
16 Section 67930) of the Government Code is amended and
17 renumbered to read:

18
19 TITLE ~~7.93~~: 7.89. TRANSPORTATION AGENCY OF
20 MONTEREY COUNTY
21

22 SEC. 48. Section 69911 of the Government Code is
23 amended to read:

24 69911. In the County of Kern, a majority of the judges
25 of the superior court may appoint the following officers
26 and employees whose salaries shall be:

27	28	Number	Title	Range
29	1		Superior Court Executive	64.3
30			Officer/Jury Commissioner	
31	3		Principal Attorney	62.0 or,
32			Senior Attorney OR	59.2 or,
33			Associate Attorney OR	56.3 or,
34			Deputy Attorney OR	53.5
35	1		Court Commissioner	75–85% of a
36				Superior Court
37				judge’s annual
38				salary
39	1		Senior Juvenile	75–85% of a



1		Court Referee	Superior Court
2			judge's annual
3			salary
4	1	Court Services Manager	53.1
5	1	Superior Court	47.9
6		Calendar Coordinator	
7	1	Departmental Systems	54.8
8		Coordinator II	
9	1	Probate Examiner	48.5
10	13	Assistant Secretary,	44.0
11		Superior Court	
12	22	Court Reporter	55.4
13	1	Asst. Clerk of the Court	60.7
14	1	Dept. Systems Coord. I	52.8
15	1	Data Entry OP II	39.4
16	1	Account Clerk IV	44.4
17	2	Account Clerk II OR	38.9
18		Account Clerk I	36.1
19	1	Records Clerk	41.2
20	2	Microphotographer	40.3
21	2	Asst. Chief Deputy Clerk	52.6
22	1	CJIS Coord.	49.6
23	4	Supv. Superior Court Clerk	49.6
24	24	Superior Court Clerk II OR	47.4
25		Superior Court Clerk I	43.8
26	10	Deputy Clerk III	45.8
27	32	Deputy Clerk II OR	43.7
28		Deputy Clerk I	41.4
29	4	Typist Clerk II OR	38.1
30		Typist Clerk I	35.3
31	1	Clerk III	40.3
32	2	Clerk II OR	37.6
33		Clerk I	34.8
34	1	Senior Secretary	44.5

36 The salary range set forth above is provided for in the
 37 salary schedule of the Kern County salary ordinance.

38 All personnel appointed pursuant to this section shall
 39 be noncivil service and shall serve at the pleasure of the
 40 majority of the judges. With the approval of the board of



1 supervisors, the majority of the judges may establish any
2 additional positions as are required, and, with the
3 approval of the board of supervisors, may appoint and
4 employ additional commissioners, officers, assistants, and
5 other employees as it deems necessary for the
6 performance of the duties and exercise of the powers
7 conferred by law upon the court and its members. Rates
8 of compensation of all positions assigned to the superior
9 court may be adjusted by joint action and approval of the
10 board of supervisors and a majority of the judges of the
11 court. Any additional appointments or changes in
12 compensation made pursuant to this section shall be on
13 an interim basis and shall expire on the effective date of
14 appropriate ratifying or modifying state legislation.

15 All personnel appointed pursuant to this section shall
16 be entitled to the same employee benefits, with the
17 exception of court holidays, ~~as that are~~ provided to all
18 other county employees by the board of supervisors.

19 SEC. 49. Section 73665.5 of the Government Code is
20 amended to read:

21 73665.5. (a) There shall be one marshal for each
22 division of the district. ~~Upon the effective date of this~~
23 ~~chapter~~ *On and after January 1, 1994, the following shall*
24 *apply:*

25 (1) The elected constable of the North Humboldt
26 Judicial District shall continue in office as the marshal of
27 the North Humboldt Division until the expiration of his
28 or her current elected term of office. Until the expiration
29 of his or her current term, the marshal shall receive the
30 same salary and benefits to which he or she was entitled
31 as constable.

32 (2) The elected marshal of the Eureka Judicial District
33 shall continue in office as the marshal of the Eureka
34 Division until the expiration of his or her current elected
35 term of office. Until the expiration of his or her current
36 term, the marshal shall receive the same salary and
37 benefits to which he or she was entitled as marshal.

38 (3) The elected constable on the Eel River Judicial
39 District shall continue in office as the marshal of the Eel
40 River Division until the expiration of his or her current



1 elected term in office. Until the expiration of his or her
2 current term, the marshal shall receive the same salary
3 and benefits to which he or she was entitled as constable.

4 (4) The marshal may appoint in his or her division,
5 with the approval of the presiding judge and the
6 concurrence of the board of supervisors, the following
7 officers:

8 (A) In the North Humboldt Division, one deputy
9 marshal and one legal office assistant I/II.

10 (B) In the Eureka Division, one chief deputy marshal,
11 three deputy marshals I/II, one senior legal office
12 assistant, and one legal office assistant I/II.

13 (C) In the Eel River Division, one deputy marshal and
14 one legal office assistant I/II.

15 This paragraph is not intended, and shall not be
16 construed, to limit the county from changing the number
17 or types of positions set forth herein.

18 (b) Notwithstanding any other provision of law, in the
19 event of a vacancy in the position of marshal in any
20 division, whether prior to or subsequent to the expiration
21 of the then current term, an appointment to fill that
22 vacancy shall be made by the presiding judge of that
23 division with the concurrence of the board of supervisors.
24 Each appointed marshal shall serve at the pleasure of the
25 presiding judge and may be removed from office in
26 accordance with any appropriate county personnel
27 resolutions.

28 SEC. 50. Section 1250.9 of the Health and Safety Code
29 is amended and renumbered to read:

30 ~~1250.9.~~

31 *128600.* (a) The Legislature finds and declares that
32 the oversight and reporting requirements of the
33 demonstration project established in this section are
34 equal to, or exceed similar licensing standards for other
35 health facilities.

36 (a) The Office of Statewide Health Planning and
37 Development shall conduct a demonstration project to
38 evaluate the accommodation of postsurgical care patients
39 for periods not exceeding two days, except that the



1 attending physician and surgeon may require that the
2 stay be extended to no more than three days.

3 (b) (1) The demonstration project shall operate for a
4 period not to exceed six years, for no more than 12 project
5 sites, one of which shall be located in Fresno County.
6 However, the demonstration project shall be extended an
7 additional six years, to September 30, 2000, only for those
8 project sites that were approved by the Office of
9 Statewide Health Planning and Development and
10 operational prior to January 1, 1994.

11 (2) Any of the 12 project sites may be distinct parts of
12 health facilities, or any of those sites may be physically
13 freestanding from health facilities. None of the project
14 sites that are designated as distinct parts of health
15 facilities, shall be located in the service area of any one of
16 the six freestanding project sites. None of the project sites
17 that are designated as distinct parts of health facilities
18 shall have a service area that overlaps with any one or
19 more service areas of the freestanding pilot sites. For the
20 purposes of this section, service area shall be defined by
21 the office.

22 (c) (1) The office shall establish standards for
23 participation, commensurate with the needs of
24 postsurgical care patients requiring temporary nursing
25 services following outpatient surgical procedures.

26 (2) In preparing the standards for participation, the
27 office may, as appropriate, consult with the State
28 Department of Health Services and a technical advisory
29 committee that may be appointed by the Director of the
30 Office of Statewide Health Planning and Development.
31 The committee shall have no more than eight members,
32 all of whom shall be experts in health care, as determined
33 by the director of the office. One of the members of the
34 committee shall, as determined by the director of the
35 office, have specific expertise in the area of pediatric
36 surgery and recovery care.

37 (3) If a technical advisory committee is established by
38 the director of the office, members of the committee shall
39 be reimbursed for any actual and necessary expenses



1 incurred in connection with their duties as members of
2 the committee.

3 (d) Not later than six months prior to the conclusion
4 of the demonstration project, the office shall submit an
5 evaluation of the demonstration project to the
6 Legislature on the effectiveness and safety of the
7 demonstration project in providing recovery services to
8 patients receiving outpatient surgical services. The office
9 *shall include*, as part of the evaluation, ~~shall include~~
10 recommendations regarding the establishment of a new
11 license category or amendment of existing licensing
12 standards.

13 (e) The office shall establish and administer the
14 demonstration project in facilities with no more than 20
15 beds that continuously meet the standards of skilled
16 nursing facilities licensed under subdivision (c) of Section
17 1250, except that the office may, as appropriate and unless
18 a danger to patients would be created, eliminate or
19 modify the standards. This section ~~shall~~ *does* not prohibit
20 general acute care hospitals from participating in the
21 demonstration project. The office may waive those
22 building standards applicable to a project site that is a
23 distinct part of a health facility that are inappropriate, as
24 determined by the office, to the demonstration project.
25 Notwithstanding health facility licensing regulations
26 contained in Division 5 (commencing with Section
27 70001) of Title 22 of the California Code of Regulations,
28 a project site that is a distinct part of a health facility shall
29 comply with all standards for participation established by
30 the office and with all regulations adopted by the office
31 to implement this section. A project site that is a distinct
32 part of a health facility shall not, for the duration of the
33 pilot project, be subject to *any provisions of* Division 5
34 (commencing with Section 70001) of Title 22 of the
35 California Code of Regulations ~~which~~ *that* conflict, as
36 determined by the office, with the demonstration project
37 standards or regulations.

38 (f) The office shall issue a facility identification
39 number to each facility selected for participation in the
40 demonstration project.



1 (g) Persons who wish to establish recovery care
2 programs shall make application to the office for inclusion
3 in the pilot program. Applications shall be made on forms
4 provided by the office and shall contain sufficient
5 information determined as necessary by the office.

6 (h) As a condition of participation in the pilot
7 program, each applicant shall agree to provide statistical
8 data and patient information that the office deems
9 necessary for effective evaluation. It is the intent of the
10 Legislature that the office shall develop procedures to
11 assure the confidentiality of patient information and shall
12 ~~only~~ disclose patient information, including name
13 identification, *only* as is necessary pursuant to this section
14 or any other law.

15 (i) Any authorized officer, employee, or agent of the
16 office may, upon presentation of proper identification,
17 enter and inspect any building or premises and any
18 records, including patient records, of a pilot project
19 participant at any reasonable time to review compliance
20 with, or to prevent any violation of, this section or the
21 regulations and standards adopted ~~thereunder~~ *under this*
22 *section*.

23 (j) The office may suspend or withdraw approval of
24 any or all pilot projects with notice, but without hearing,
25 if it determines that patient safety is being jeopardized.

26 (k) The office may charge applicants and participants
27 in the program a reasonable fee to cover its actual cost of
28 administering the pilot program and the cost of any
29 committee established by this section. The facilities
30 participating in the pilot project shall pay fees that equal
31 the amount of any increase in fiscal costs incurred by the
32 state as a result of the extension of the pilot project until
33 September 30, 2000, pursuant to subdivision (b).

34 (l) The office may contract with a medical consultant
35 or other advisers as necessary, as determined by the
36 office. Due to the necessity to expedite the demonstration
37 project and its extremely specialized nature, the
38 contracts shall be exempt from Section 10373 of the Public
39 Contract Code, and shall be considered sole-source
40 contracts.



1 (m) The office may adopt emergency regulations to
2 implement this section in accordance with Section
3 11346.1 of the Government Code, except that the
4 regulations shall be exempt from the requirements of
5 subdivisions (e), (f), and (g) of that section. The
6 regulations shall be deemed ~~an~~ emergency *regulations*
7 for the purposes of Section 11346.1.

8 Applications to establish any of the four project sites
9 authorized by the amendments made to this section
10 ~~during the 1987-88 Regular Session of the California~~
11 ~~Legislature by Chapter 949 of the Statutes of 1988~~ shall be
12 considered by the ~~state department~~ office from among
13 the applications submitted to it in response to its initial
14 request for proposal process.

15 (n) Any administrative opinion, decision, waiver,
16 permit, or finding issued by the office prior to July 1, 1990,
17 with respect to any of the demonstration projects
18 approved by the office prior to July 1, 1990, shall
19 automatically be extended by the ~~state department~~ office
20 to remain fully effective as long as the demonstration
21 projects are required to operate pursuant to this section.

22 (o) The office shall not grant approval to a postsurgical
23 recovery care facility, as defined in Section 97500.111 of
24 Title 22 of the California Code of Regulations, ~~which that~~
25 is freestanding, as defined in Section 97500.49 of Title 22
26 of the California Code of Regulations, to begin operation
27 as a participating demonstration project if it is located in
28 the County of Solano.

29 (p) Participants in the demonstration program for
30 postsurgical recovery facilities shall not be precluded
31 from receiving reimbursement from, or conducting good
32 faith negotiations with, a third party payor solely on the
33 basis that the participant is engaged in a demonstration
34 program and accordingly is not licensed.

35 SEC. 51. Section 1597.15 of the Health and Safety
36 Code is amended to read:

37 1597.15. (a) The director shall authorize the
38 University of California to conduct a pilot project,
39 pursuant to this section, for a period not to extend 24
40 months beyond the date that funding is available for



1 expenditure for the pilot project. The purpose of the pilot
2 project is to test the feasibility of permitting family day
3 care home providers and child day care center staff to
4 undertake gastric tube feeding or the administration of
5 medication through nebulizers under the conditions and
6 with the precautions specified in subdivision (c).

7 (b) Notwithstanding any other provision of law, upon
8 authorization from the director pursuant to subdivision
9 (a), child day care center and family day care home
10 licensees and staff selected by the principal investigator
11 of the pilot project, to be known as the Access Project, or
12 his or her staff shall be authorized to undertake
13 gastrostomy tube feeding or the administration of
14 medication through nebulizers on children enrolled in
15 their facilities.

16 (c) For the purposes of the pilot project, the following
17 precautions shall be taken:

18 (1) The principal investigator selected by the
19 University of California shall be ~~someone~~ *a person* who is
20 licensed to practice medicine in the state and is
21 experienced in supervising programs in which
22 nonmedical personnel perform minor health procedures.

23 (2) The availability of, and interaction with,
24 experienced nurses with appropriate experience, as
25 determined by the principal investigator, shall be part of
26 the study design.

27 (3) Only children with explicit and signed permission
28 ~~by~~ *from* their personal physicians shall be included in the
29 pilot project.

30 (d) The University of California shall notify the
31 department of any family day care provider or child day
32 care center staff selected to participate in the training
33 and procedures described in subdivision (b) prior to
34 undertaking these procedures.

35 (e) Eighteen months after the date funding for the
36 proposed pilot became available for expenditure, the
37 principal investigator of the Access Project shall submit
38 an evaluation of the project to the Assembly Human
39 Services Committee and the Senate Health and Human
40 Services Committee of the Legislature. In preparing the



1 evaluation, the Access Project shall consult with
2 representatives from the State Department of Health
3 Services, the department, family day care associations,
4 family resource centers and networks, *the* child care
5 center provider community, and child care resource and
6 referral agencies. The principal investigator of the Access
7 Project shall consult with the department to determine
8 the additional data necessary for the department to make
9 use of the evaluation. The evaluation shall include, but
10 not be limited to, all of the following:

11 (1) The number of family day care home providers
12 who participated in the project, with information ~~of~~
13 ~~which~~ *identifying the* procedure the provider was trained
14 in and his or her licensed capacity and actual enrollment.

15 (2) The number of child day care center staff who
16 participated in the project, with information ~~on~~ ~~which~~
17 *identifying the* procedure the staff was trained in, the
18 licensed capacity and actual enrollment of the program,
19 and the number of staff overall.

20 (3) The number of children who were able to be
21 served in licensed child care programs with trained
22 family day care home providers or child day care center
23 staff.

24 (4) Overall impressions, problems encountered, and
25 satisfaction with the pilot project by providers and staff.

26 (5) Overall impressions, problems encountered, and
27 satisfaction with the pilot project by parents and children.

28 (6) Overall impressions, problems encountered, and
29 satisfaction with the pilot project by licensing staff.

30 (7) Overall impressions, problems encountered, and
31 satisfaction with the pilot project by those providing the
32 training, backup, and monitoring, of a nonlicensing
33 nature.

34 (8) Input from providers, staff, trainers, parents, and
35 children as appropriate about the effectiveness of the
36 pilot project.

37 (9) An assessment of the adequacy of the training, ~~that~~
38 ~~includes~~ *including* curriculum and core competencies for
39 the health care procedures taught; teaching methods



1 used in the project; and the quality of health care
2 procedures provided, including errors and incidents.

3 (10) The impact on health and safety from engaging in
4 these procedures on the child needing the procedure and
5 the other children and staff in the program, where
6 measurable.

7 (11) The impact of the pilot project on increasing the
8 ability of child care programs to serve children with
9 special health needs.

10 (12) The number of nurse visits required for initial
11 placement in the child care setting.

12 (13) The need for a nurse with appropriate
13 experience, as determined by the principal investigator,
14 after placement is arranged and initiated as an adjunct to
15 support each child's own physician or physicians.

16 (14) The cost of providing the training and services.

17 (15) Recommendations as to whether the pilot project
18 should be expanded to enable family day care home
19 providers and child day care center staff throughout the
20 state to undertake these procedures and under what
21 specific conditions, with accompanying rationales.

22 (16) Recommendations for other possible procedures
23 to be authorized in a pilot project with the reasons for
24 those recommendations.

25 (17) The cost of the care provided in the project, the
26 likely cost of the care if performed by the child day care
27 licensees or staff pursuant to the project, and the cost for
28 provision of that care by the child's current *care* providers
29 ~~thereof~~, specifically including the cost of nursing services.

30 (18) The number of Medi-Cal recipients participating
31 in the project.

32 (f) No provision of this section ~~shall apply~~ *applies* to
33 the Regents of the University of California unless the
34 Regents, by appropriate resolution, make it applicable. It
35 is the intent of the Legislature that the project ~~shall~~ be
36 funded from non-General Fund resources.

37 (g) This section shall remain in effect only until two
38 years from the date funding is available for expenditure
39 for the pilot project established pursuant to this section
40 and as of that date shall be repealed, unless a later enacted



1 statute, which is chaptered before that date, deletes or
2 extends that date. The director shall notify the Chief
3 Clerk of the Assembly in writing of the date this section
4 is repealed and the Chief Clerk shall publish the
5 notification in the Assembly Journal.

6 SEC. 52. Section 1771 of the Health and Safety Code
7 is amended to read:

8 1771. Unless the context otherwise requires, the
9 definitions in this section govern the interpretation of this
10 chapter.

11 (a) (1) “Affinity group” means a grouping of
12 individuals sharing a common interest, philosophy, or
13 connection (e.g., military officers, religion, ~~etc.~~).

14 (2) “Annual report” means audited financial
15 statements and reserve calculations (as required by
16 Sections 1792.2 and 1793), with accompanying certified
17 public accountant’s opinions thereon, resident lists,
18 evidence of fidelity continuing care bond, and
19 certification that the contract in use for new residents has
20 been approved by the department, all to be submitted to
21 the department by each provider annually, as required by
22 Section 1790.

23 (3) “Applicant” means any entity that submits an
24 application to the department for a permit to sell deposit
25 subscriptions and certificate of authority.

26 (b) [reserved]

27 (c) (1) “Cancellation” means to destroy the force and
28 effect of an agreement or continuing care contract, by
29 making or declaring it void or invalid.

30 (2) “Cancellation period” means the 90-day period,
31 beginning when the transferor signs the continuing care
32 contract, during which time the resident or transferor
33 may rescind the continuing care contract.

34 (3) “Care” means nursing, medical, or other health
35 related services, protection or supervision, ~~or~~ assistance
36 with the personal activities of daily living, or any
37 combination of those services.

38 (4) “Cash equivalent” means certificates of deposit
39 and United States treasury securities with a maturity of
40 five years or less. Possession and control of any of these



1 instruments shall be transferred to the escrow agent or
2 depository at the time the deposit is paid.

3 (5) “Certificate” or “certificate of authority” means
4 the written authorization from the department for a
5 specified provider to enter into one or more continuing
6 care contracts at a single specified continuing care
7 retirement community.

8 (6) “Condition” means a restriction or required action
9 placed on a provisional or final certificate of authority by
10 the department. A condition may limit the circumstances
11 under which the provider may enter into any new
12 contract, or may be a condition precedent to the issuance
13 of a final certificate of authority.

14 (7) “Consideration” means some right, interest, profit,
15 or benefit accruing to one party, or some forbearance,
16 detriment, loss, or responsibility, given, suffered, or
17 undertaken by the other.

18 (8) “Continuing care contract” means a written
19 contract,—~~which~~ *that* includes a promise, expressed or
20 implied, by a provider to provide one or more elements
21 of care to an elderly resident for the duration of his or her
22 life or for a term in excess of one year, in exchange for the
23 payment of an entrance fee, ~~or~~ *the* payment of periodic
24 charges, or both types of payments. A continuing care
25 contract may consist of one *agreement* or a series of
26 agreements and may have other writings incorporated by
27 reference. A life care contract, as defined in paragraph
28 (1) of subdivision (l), is a type of continuing care
29 contract.

30 (9) “Continuing care contract committee” means an
31 advisory panel appointed pursuant to Section 1777.

32 (10) “Continuing care retirement community”
33 (CCRC) means a facility where services promised in a
34 continuing care contract are provided. A distinct phase of
35 development approved by the department may be
36 considered to be the continuing care retirement
37 community when a project is being developed in
38 successive multiple phases over a period of time. When
39 the services are provided in a resident’s own home, the



1 homes into which the provider takes those services
2 collectively are considered part of the community.

3 (11) “Control” means the power to direct or cause the
4 direction of the management and policies of an operator
5 of a continuing care retirement community, whether
6 through the ownership of voting securities, by contract,
7 or otherwise. A parent or sole corporate member of a
8 corporation may exhibit control of the operator of the
9 continuing care retirement community through direct
10 participation in the initiation or approval of policies
11 directly affecting the operations, including, but not
12 limited to, approval of budgets or approval of the
13 continuing care retirement community administrator.

14 (d) (1) “Department” means the State Department
15 of Social Services.

16 (2) “Deposit subscription” means *a* cash or cash
17 equivalent payment made by a subscriber to an applicant
18 and the escrow agent prior to the release of escrow during
19 development or construction of a continuing care
20 retirement community.

21 (3) “Deposit subscription agreement” means a
22 written contract in compliance with Section 1780.4
23 entered into between the transferor and applicant. This
24 agreement allows an applicant to accept deposit
25 subscriptions prior to the issuance of a provisional
26 certificate of authority.

27 (4) “Depository” means a bank or institution that is a
28 member of the Federal Deposit Insurance Corporation or
29 a comparable title insurance program. The department’s
30 approval of the depository ~~will~~ *shall* be based, in part,
31 upon its capability to ensure the safety of funds and
32 properties entrusted to it and capable and willing to
33 perform the obligations of the depository pursuant to the
34 escrow agreement and this chapter. The depository may
35 be the same entity as the escrow agent.

36 (5) “Director” means the Director of the State
37 Department of Social Services.

38 (e) (1) “Elderly” means an individual who is 60 years
39 of age or older.



1 (2) “Entity” means an organization or being that
2 possesses separate existence for tax purposes. Entity
3 includes a person, sole proprietorship, estate, trust,
4 association, joint venture, partnership, ~~and~~ or
5 corporation.

6 (3) “Entrance fee” means an initial or deferred
7 transfer of consideration made or promised to be made by
8 a person entering into a continuing care contract, for the
9 purpose of assuring care or related services pursuant to
10 that continuing care contract or as full or partial payment
11 for the promise to provide one or more elements of care
12 for the term of the continuing care contract. An entrance
13 fee includes the purchase price of a condominium,
14 cooperative, or other interest sold in connection with a
15 promise of continuing care. The entrance fee may
16 include a previously paid deposit subscription, which is
17 credited to the total entrance fee due at the time the
18 transferor signs the continuing care contract. An
19 entrance fee that is greater than 12 times the monthly fee
20 shall be presumed to imply a promise to provide care for
21 more than one year. The term “accommodation fee” may
22 be synonymously used to mean an entrance fee.

23 (4) “Equity” means the residual value of a business or
24 property beyond any mortgage or deed of trust thereon
25 and liability therein.

26 (5) “Equity project” means a continuing care
27 development project ~~wherein~~ *in which* the transferors
28 are given an equity interest in the continuing care
29 retirement community property or in a transferable
30 membership in a resident’s association.

31 (6) “Escrow agent” means a bank or institution,
32 including, but not limited to, a title insurance company,
33 approved by the department as capable of ensuring the
34 safety of the funds and properties entrusted to it and
35 capable and willing to perform the terms of the escrow
36 pursuant to the escrow agreement and ~~the provisions of~~
37 this chapter.

38 (f) (1) “Facility” means any place or accommodation
39 in which a provider undertakes to provide a resident with
40 care or related services, whether or not the place or



1 accommodation is constructed, owned, leased, rented, or
2 otherwise contracted for by the provider.

3 (g) [reserved]

4 (h) [reserved]

5 (i) “Inactive certificate of authority” means a
6 certificate ~~which~~ *that* has been declared inactive under
7 Section 1793.8 and renders its holder no longer
8 authorized to enter into continuing care contracts, but
9 still contractually obligated to continuing care residents
10 and statutory compliance requirements.

11 (j) [reserved]

12 (k) [reserved]

13 (l) (1) “Life care contract” means a continuing care
14 contract ~~which~~ *that* includes a promise, expressed or
15 implied, by a provider to provide routine services at all
16 levels of care, including acute care and *the services of*
17 *physicians and surgeons* ~~services surgeons~~, to a resident
18 for the duration of his or her life. Care shall be provided
19 in a continuing care retirement community having a
20 comprehensive continuum of care, including a skilled
21 nursing facility, under the ownership and supervision of
22 the provider on, or adjacent to, the premises. In a life care
23 contract, no change is made in the monthly fee based on
24 level of service. A life care contract shall also include
25 provisions to subsidize residents who become financially
26 unable to pay their monthly care fees.

27 (2) “Life lease” means a landlord-tenant relationship
28 ~~wherein~~ *in which* the tenant obtains only the right to
29 possess a defined living unit for life. In a life lease there
30 is no obligation, or intent, to provide care and services to
31 the tenant at any time, present or future.

32 (m) (1) “Monthly care fee” means the monthly
33 charge to a resident for accommodations and services
34 rendered, including care, board, or lodging, and any
35 other periodic charges to the resident, determined on a
36 monthly or other recurring basis, pursuant to the
37 provisions of a continuing care contract. Monthly care
38 fees are exclusive of periodic entrance fee payments or
39 other prepayments.



1 (2) “Monthly fee contract” means a continuing care
2 contract that provides by its terms for the monthly
3 payment of a fee for accommodations and services
4 rendered.

5 (n) (1) “Nonambulatory person” means a person who
6 is unable to leave a building unassisted under emergency
7 conditions, as ~~required~~ *described* by Section 13131.

8 (o) [reserved]

9 (p) (1) “Per capita cost” means a continuing care
10 retirement community’s operating expenses, excluding
11 depreciation, divided by the average number of
12 residents.

13 (2) “Permit to sell deposit subscriptions” means a
14 written authorization by the department for an applicant
15 to enter into one or more deposit subscription
16 agreements at a single specified location.

17 (3) “Personal care” means assistance with personal
18 activities of daily living, including dressing, feeding,
19 toileting, bathing, grooming, mobility, and associated
20 tasks, to help provide for and maintain physical and
21 psychosocial comfort.

22 (4) “Personal care unit” means the living unit within
23 a physical area of a continuing care retirement
24 community specifically designed to provide ongoing
25 personal care. A personal care unit is synonymous with an
26 assisted living unit.

27 (5) “Prepaid contract” means a continuing care
28 contract in which the monthly care fee, if any, may not
29 be adjusted to cover the actual cost of care and services.

30 (6) “Processing fee” means a payment by the
31 transferor to cover administrative costs of processing the
32 application of a subscriber or prospective resident.

33 (7) “Promise to provide care” means any expressed or
34 implied representation that care will be provided or will
35 be available, such as by preferred access, whether the
36 representation is part of a continuing care contract, other
37 agreement, or series of agreements, or *is* contained in any
38 advertisement, brochure, or other material, either
39 written or oral.



1 (8) “Proposes” means a representation that an
 2 applicant or provider plans to make a future promise to
 3 provide care, which may be subject to the happening of
 4 certain events, such as continuing care retirement
 5 community construction or obtaining a certificate of
 6 authority.

7 (9) “Provider” means an entity ~~which~~ *that* provides,
 8 promises to provide, or proposes to promise to provide,
 9 care for life or for more than one year. ~~A provider shall~~
 10 ~~include~~ “Provider” *includes* any entity that controls the
 11 entity that promises care as determined by the
 12 department. ~~Homeowner’s associations, cooperatives~~ A
 13 ~~homeowner’s association, cooperative,~~ or condominium
 14 ~~associations~~ *association* shall not be ~~providers~~ a provider.

15 (10) “Provisional certificate of authority” means
 16 written authorization by the department that allows the
 17 provider to enter into continuing care contracts. This
 18 provisional certificate is issued after the conditions
 19 defined in Section 1786 have been met and is issued for
 20 a term ~~defined under~~ *specified by* subdivision (b) of
 21 Section 1786.

22 (q) [reserved]

23 (r) (1) “Refundable reserve” means the amount
 24 calculated to ensure the availability of funds for specified
 25 refunds of entrance fees.

26 (2) “Refundable contract” means a continuing care
 27 contract form that includes promises, expressed or
 28 implied, to pay refunds of entrance fees or to repurchase
 29 the transferor’s unit, membership, stock, or other interest
 30 in the continuing care retirement community when the
 31 specified refund right is not fully amortized by the end of
 32 the sixth year of residency. A lump sum payment to a
 33 resident after termination of a continuing care contract
 34 that is conditioned upon resale of a unit shall not be
 35 considered a refund and shall not be advertised as a
 36 refund.

37 (3) “Reservation fee” means cash received by an
 38 applicant from an interested individual during a market
 39 test feasibility study, ~~which~~ *that* complies with
 40 subdivision (b) of Section 1771.6.



1 (4) “Resident” means a person who enters into a
2 continuing care contract with a provider, or who is
3 designated in a continuing care contract to be a person
4 being provided or to be provided services, including care,
5 board, or lodging.

6 (5) “Residential care facility for the elderly” means a
7 housing arrangement as defined by Section 1569.2.

8 (6) “Residential living unit” means a living unit in a
9 continuing care retirement community ~~which~~ *that* is
10 included in the residential care facility for the elderly
11 license capacity, but not used exclusively for personal
12 care or nursing services.

13 (s) “Subscriber” means a person who has applied to be
14 a resident; in a continuing care retirement community
15 under development or construction, and who has entered
16 into a deposit subscription agreement.

17 (t) (1) “Termination” means the ending of a
18 continuing care contract as provided for in the terms of
19 the continuing care contract.

20 (2) “Transfer” means conveyance of a right, title, or
21 interest.

22 (3) “Transfer fee” means a levy by the provider
23 against the proceeds from the sale of a transferor’s equity
24 interest.

25 (4) “Transfer trauma” means death, depression, or
26 regressive behavior; caused by the abrupt and
27 involuntary transfer of an elderly resident from one home
28 to another, resulting in a loss of familiar physical
29 environment, loss of well-known neighbors, attendants,
30 nurses and medical personnel, the stress of an abrupt
31 break in the small routines of daily life, and the major loss
32 of visits from friends and relatives who may be unable to
33 reach the new facility.

34 (5) “Transferor” means a person who transfers or
35 promises to transfer a sum of money or property for the
36 purpose of assuring care or related services pursuant to a
37 continuing care contract, whether for the benefit of the
38 transferor or another.

39 SEC. 53. Section 1779 of the Health and Safety Code
40 is amended to read:



1 1779. (a) An application for a permit to sell deposit
2 subscriptions and certificate of authority shall be filed
3 with the department, as set forth in this chapter, in any
4 of the following circumstances:

5 (1) Prior to entering into any continuing care
6 contracts or any deposit subscription agreements.

7 (2) Prior to initiating construction of a prospective
8 continuing care ~~continuing care~~ retirement community.

9 (3) Prior to initiating construction on a new phase or
10 expansion of an existing continuing care retirement
11 community. An expansion has occurred when there is an
12 increase in Residential Care Facility for the Elderly
13 license capacity, an increase in the number of units at the
14 continuing care retirement community, an increase in
15 the number of skilled nursing beds, or additions to or
16 replacement of existing continuing care retirement
17 community structures that affects obligations to current
18 residents. The department ~~has the discretion to eliminate~~
19 *may waive* all or portions of the application contents
20 ~~required~~ *requirements* under Section 1779.4 for an
21 expansion of an existing continuing care retirement
22 community.

23 (4) Prior to converting an existing structure to a
24 continuing care retirement community.

25 (5) Prior to recommencing marketing on a planned
26 facility when the applicant has previously forfeited a
27 permit to sell deposit subscriptions pursuant to Section
28 1793.7.

29 (6) Prior to executing new continuing care contracts
30 after a provisional or final certificate of authority has been
31 inactivated, revoked, surrendered, or forfeited.

32 (7) Prior to closing the sale or transfer of a continuing
33 care retirement community.

34 (b) If the provider undergoes an organizational
35 change, including, but not limited to, a change in
36 structure, separation, or merger, a new application shall
37 be required and a new certificate of authority must be
38 issued by the department before any continuing care
39 contracts may be executed by the new entity.



1 (c) A new application is not required for an entity
2 name change, if there is no change in the entity structure
3 or management. If the provider undergoes a name
4 change, the provider shall notify the department of the
5 name change and shall return the previously issued
6 certificate of authority for reissuance under the new
7 corporate name.

8 SEC. 54. Section 1779.4 of the Health and Safety Code
9 is amended to read:

10 1779.4. An application shall contain all of the
11 following:

12 (a) The name and business address of the applicant.

13 (b) An itemization of the total fee calculation,
14 including sources of figures used, and a check in the
15 amount of 80 percent of the total application fee.

16 (c) The name, address, and a description of the real
17 property of the continuing care retirement community.

18 (d) The estimated number of continuing care
19 residents of the continuing care retirement community.

20 (e) A description of the proposed continuing care
21 retirement community, including the services and care to
22 be available for residents or provided to residents, or
23 both.

24 (f) A statement indicating whether the application is
25 for a certificate of authority to enter into life care
26 contracts.

27 (g) Documentation evidencing a preliminary
28 approval for licensure from the *Community Care*
29 *Licensing Division of the State Department of Social*
30 *Services, ~~Community Care Licensing Division,~~* or the
31 Licensing and Certification Division of the State
32 Department of Health Services, as appropriate.

33 (h) If the applicant is an individual, a statement
34 disclosing any revocation or other disciplinary action
35 taken, or in the process of being taken, against a license,
36 permit, or certificate held or previously held by the
37 applicant.

38 (i) A description of any matter in which any principal
39 involved with the proposed continuing care retirement
40 community has been convicted of a felony or pleaded



1 nolo contendere to a felony charge, or been held liable or
2 enjoined in a civil action by final judgment, if the felony
3 or civil action involved fraud, embezzlement, fraudulent
4 conversion, or *the* misappropriation of property. For the
5 purpose of this ~~paragraph~~ *subdivision*, “principal” means
6 any representative of the developer or applicant
7 including a general partner, chief executive officer, or
8 chief operating officer who has significant
9 decisionmaking authority with respect to the proposed
10 continuing care retirement community.

11 (j) If the applicant is an entity other than an
12 individual, the following information also shall be
13 submitted:

14 (1) A statement ~~naming~~ *identifying* the type of legal
15 entity and listing the interest and extent of the interest of
16 each principal in the legal entity. For the purposes of this
17 paragraph, “principal” means any person or entity
18 having a ~~10 percent or more~~ financial interest in the legal
19 entity *of 10 percent or more*. When the application is
20 submitted in the name of a corporation, the parent, sole
21 corporate shareholder, or sole corporate member ~~shall be~~
22 ~~listed as an applicant, when that parent, sole corporate~~
23 ~~shareholders, or sole corporate member~~ *who* controls the
24 operation of the continuing care retirement community
25 *shall be listed as an applicant*. When multiple corporate
26 applicants exist, they shall be listed jointly by corporate
27 name on the application, and the certificate of authority
28 shall be issued in the joint names of the corporations.
29 When the application is submitted by a partnership, all
30 general partners shall be listed as applicants and the
31 certificate of authority shall be issued in the joint names
32 of the general partners.

33 (2) The names of the members of the board of
34 directors, the trustees, the general partners, or other
35 responsible officers of the legal entity.

36 (3) A statement as to whether the applicant was or is
37 affiliated with a religious, charitable, nonprofit or
38 for-profit organization, and the extent of any affiliation.
39 The statement shall also include the extent, if any, to
40 which the affiliate organization will be responsible for the



1 financial and contract obligations of the applicant and
2 shall be signed by a responsible officer of the affiliate
3 organization.

4 (4) A statement identifying any parent corporation or
5 other affiliate corporation, the primary activities, and the
6 interest in the applicant held by each entity.

7 (5) Copies of all contracts, management agreements,
8 or other documents; setting forth the relationships of the
9 entities.

10 (6) A statement as to whether the applicant, a
11 principal, a parent, affiliate, or subsidiary corporation, ~~or~~
12 any other affiliate entity, ~~or~~ any responsible employee,
13 manager, *or* board member, or anyone who otherwise
14 profits from the continuing care retirement community;
15 has had applied against it; any injunctive or restrictive
16 order of a court of record, or any suspension or revocation
17 of any state or federal license, permit, or certificate,
18 arising out of or relating to business activity of health or
19 nonmedical care, including, but not limited to, actions
20 affecting a license to operate a health care institution, a
21 nursing home, ~~an~~ intermediate care facility, a hospital, ~~or~~
22 a home health agency, residential care facility for the
23 elderly, community care facility, or child day care facility.

24 (k) A description of the business experience of the
25 applicant in the operation or management of similar
26 facilities.

27 (l) A copy of any advertising material regarding the
28 proposed continuing care retirement community
29 prepared for distribution or publication.

30 (m) Evidence of the bonds required by Section 1789.8.

31 (n) Copies of the proposed continuing care contracts
32 to be entered into with residents of the continuing care
33 retirement community.

34 (o) A copy of the proposed deposit subscription
35 agreement form.

36 (p) The name of the proposed escrow agent and
37 depository.

38 (q) Copies of all escrow agreements.

39 (r) A statement of any periodic fees to be paid by
40 residents, the components and services considered in



1 determining such fees, and the manner by which the
2 provider may adjust these fees in the future. If the
3 continuing care retirement community is already in
4 operation, or if the provider operates one or more similar
5 continuing care retirement communities within this
6 state, the statement shall include tables showing the
7 frequency and each percentage increase in periodic rates
8 at each continuing care retirement community for the
9 previous five years, or—~~such~~ *any* shorter period as *for*
10 *which* each continuing care retirement community may
11 have been operated by the provider or his or her
12 predecessor in interest.

13 (s) A statement of the provisions that have been made,
14 or will be made, to provide reserve funding or security by
15 the provider to enable the provider to fully perform his
16 or her obligations pursuant to continuing care contracts,
17 including, but not limited to, the establishment of escrow
18 accounts in financial institutions, trusts, or reserve funds.

19 (t) A copy of audited financial statements for the three
20 most recent fiscal years of the applicant or any shorter
21 period of time the applicant has been in existence,
22 prepared in accordance with generally accepted
23 accounting principles and accompanied by an
24 independent auditor's report from a reputable firm of
25 certified public accountants. The audited financial
26 statements shall be accompanied by a statement signed
27 and dated by both the chief financial officer and chief
28 executive officer for the identified corporation, or by
29 each general partner, that the financial statements are
30 complete, true, and correct in all material matters to the
31 best of their knowledge.

32 (u) Unaudited interim financial statements shall be
33 included if the applicant's fiscal year ended more than 90
34 days prior to the date of filing. The statements shall be
35 either quarterly or monthly, *and* prepared on the same
36 basis as the annual audited financial statements or other
37 basis acceptable to the department. The period between
38 the end of the most recent fiscal year for which audited
39 financial statements are submitted and a date not more



1 than 90 days prior to the date the application is filed shall
2 be covered in the unaudited interim financial statements.

3 (v) A financial and marketing feasibility study
4 prepared by a firm acceptable to the department. The
5 study shall include or address, as appropriate, all of the
6 following items:

7 (1) A narrative describing the applicant, *and* its prior
8 experience, qualifications, and management, including a
9 descriptive analysis of the proposed continuing care
10 retirement community and its service package, fee
11 structure, and anticipated opening date.

12 (2) A narrative describing the financing and
13 construction plans for the proposed continuing care
14 retirement community, including a statement of the
15 anticipated source and application of the funds to be used
16 in the purchase, lease, rental, or construction. This
17 statement shall include, but not be limited to, all of the
18 following:

19 (A) A description of any mortgage loan or other
20 long-term financing intended to be used for the financing
21 of the continuing care retirement community, including
22 the anticipated terms and costs of the financing. This
23 indebtedness shall not exceed the appraised value of the
24 continuing care retirement community.

25 (B) Equity to be contributed by the applicant.

26 (C) Other sources of funds, including entrance fees, if
27 applicable.

28 (D) An estimate of the cost of purchasing, leasing,
29 renting, designing, or constructing and equipping the
30 continuing care retirement community, including, but
31 not limited to, ~~such related costs as~~ financing expense,
32 legal expense, land costs, occupancy development costs,
33 and all other similar costs ~~which~~ *that* the provider expects
34 to incur, or become obligated for, prior to the
35 commencement of operation.

36 (E) Interest expense, insurance premiums, and
37 property taxes prior to opening.

38 (F) An estimate of any proposed continuing care
39 retirement community reserves required for items such
40 as debt service, insurance premiums, and operations.



1 (G) An estimate of any funds ~~which~~ *that* are
2 anticipated to be necessary to fund startup losses and to
3 assure full performance of the obligations of the provider
4 pursuant to continuing care contracts, including, but not
5 limited to, any reserve fund escrow.

6 (3) An analysis of the potential market, addressing
7 such items as:

8 (A) Service area, including its demographic,
9 economic, and growth characteristics.

10 (B) Forecasts of penetration based on the proposed
11 fee structure.

12 (C) Existing and planned competition in and about
13 the primary service area.

14 (4) A detailed description of the sales and marketing
15 plan, addressing such items as:

16 (A) Marketing schedule, anticipated sales, and
17 cancellation rates.

18 (B) Month-by-month forecast of unit sales through
19 sellout.

20 (C) A marketing plan describing the methods,
21 staffing, and advertising media.

22 (D) An estimate of the total entrance fees to be
23 received from residents prior to completion of
24 occupancy.

25 (5) Projections of move-in rates, deposit subscription
26 fee collections, couple mix by unit type, age distribution,
27 care and nursing unit utilization, and unit turnover or
28 resale rates.

29 (6) A description or analysis of development-period
30 costs and revenues. This item should be provided to the
31 department on a quarterly basis, throughout the
32 development of the proposed continuing care retirement
33 community.

34 (w) Projected annual financial statements for a period
35 commencing on the first day of the first fiscal year,
36 following the most recent year for which an audited
37 financial statement has been provided, through at least
38 the fifth year of operations.

39 (1) The projected annual financial statements shall be
40 on an accrual basis using the same accounting principles



1 and procedures as the audited financial statements
2 furnished pursuant to paragraph (u), but need not be
3 audited.

4 (2) Separate projected annual cash-flow statements
5 shall be provided. The statements shall cover the entire
6 duration of debt, and be presented on a quarterly basis
7 during the preopening, construction, and fill-up periods.
8 If the real property is leased, the cash-flow statement shall
9 project the feasibility of closing the continuing care
10 retirement community at the end of the lease period.

11 (A) The projected annual cash-flow statements shall
12 be submitted, using prevailing rates of interest, with no
13 increase of revenues and expenses due to inflation, as one
14 set of assumptions.

15 (B) The projected annual cash-flow statements shall
16 include the following:

17 (i) A detailed listing, including a full explanation of all
18 assumptions used in preparing the projections, plus
19 supporting supplementary schedules and calculations, all
20 to be consistent with the financial and marketing
21 feasibility study furnished pursuant to paragraph (v), as
22 may be required by the department for use in evaluating
23 the feasibility of the proposed continuing care retirement
24 community.

25 (ii) ~~Cash-flows~~ *Cash flow* from monthly operations,
26 including, but not limited to, monthly fees received from
27 continuing care contracts, medical unit fees if applicable,
28 other periodic fees, and gifts and bequests used in
29 operations less operating expenses.

30 (iii) Contractual ~~cash-flows~~ *cash flow* from activities,
31 including, but not limited to, presales, deposit
32 subscription receipts, and entrance fee receipts less
33 contract acquisition, marketing, and advertising
34 expenditures.

35 (iv) ~~Cash-flows~~ *Cash flow* from financing activities,
36 including, but not limited to, bond or loan proceeds less
37 bond issue or loan costs and fees, debt service including
38 CAL Mortgage Insurance premiums, trustee fees,
39 principal and interest payments, leases, contracts, rental
40 agreements, or other long-term financing.



1 (v) ~~Cash-flow~~ *Cash flow* from investment activities,
2 including, but not limited to, construction progress
3 payments, architect and engineering, furnishings, and
4 equipment not included in the construction contract,
5 project development, inspection and testing, marketable
6 securities, investment earnings, and interfund transfers.

7 (vi) Increase or decrease in cash during the projection
8 period.

9 (vii) The beginning cash balance, which means cash,
10 marketable securities, reserves, and other funds on hand
11 available and committed to the proposed continuing care
12 retirement community.

13 (viii) Cash balance at the end of the period.

14 (ix) Details of the components of the ending cash
15 balance shall be provided for each period presented,
16 including, but not limited to, the ending cash balances for
17 bond reserves, other reserve funds, deposit subscription
18 funds, and construction funds balance.

19 (3) If the cash-flow statements required by ~~paragraph~~
20 *subparagraph* (B) indicate that the provider will have
21 cash balances ~~over and above~~ *exceeding* two months'
22 projected operating expenses of the continuing care
23 retirement community, a description of the manner in
24 which the cash balances will be invested, and the persons
25 who will be making the investment decisions, shall
26 accompany the application.

27 (4) The applicant shall furnish further explanatory
28 information, schedules, and calculations as required by
29 the department on actuarial data used to project
30 occupancy rate, unit type and couple mix, sex, age, and
31 turnover, refund, and sales rate subscription collection
32 rates, a detailed operating budget, and projections of cash
33 required for major repairs and improvements or on any
34 other factor considered during the projected periods.

35 (x) A declaration acknowledging the requirement of
36 executing and recording a Notice of Statutory Limitation
37 on Transfer (hereinafter referred to as the notice),
38 relating to continuing care retirement community
39 property pursuant to this section.



1 (1) The notice shall be acknowledged so as to entitle
 2 it to be recorded, describe the property, *and* declare the
 3 applicant’s intention to use all or part of the described
 4 property for the purposes of a ~~continuing-care~~ continuing
 5 care retirement community pursuant to this chapter, and
 6 shall be in substantially the following form:

7
 8 NOTICE OF STATUTORY LIMITATION ON
 9 TRANSFER

10
 11 Notice is hereby given that the property described
 12 below is licensed, or proposed to be licensed, for use as a
 13 continuing care retirement community and accordingly,
 14 the use and transfer of the property is subject to the
 15 conditions and limitations as to use and transfer set forth
 16 in Sections 1773 and 1789.4 of the Health and Safety Code.
 17 This notice is recorded pursuant to subdivision (x) of
 18 Section 1779.4 of the Health and Safety Code.

19 The real property, which is legally owned by (insert the
 20 name of the legal owner) and is the subject of the
 21 statutory limitation to which this notice refers, is more
 22 particularly described as follows: (Insert the legal
 23 description and the assessor’s parcel number of the real
 24 property to which this notice applies.)

25 (2) The notice shall remain in effect until notice of
 26 release is given by the State Department of Social
 27 Services Continuing Care Contract Branch. The State
 28 Department of Social Services Continuing Care
 29 Contracts Branch shall execute and record a release of the
 30 notice upon proof of complete performance of all
 31 obligations to transferors.

32 (3) Unless a notice has already been recorded with
 33 respect to the land on which the applicant or provider is
 34 operating or intends to operate a continuing care
 35 retirement community, prior to the date of execution of
 36 any trust deed, mortgage, or any other lien or
 37 encumbrance, securing or evidencing the payment of
 38 money and affecting land on which the applicant or
 39 provider intends to operate a continuing care retirement
 40 community, the applicant or provider shall give the



1 department written notice of the proposed
2 encumbrance. Upon the giving of notice to the
3 department, the applicant or provider shall execute and
4 record the Notice of Statutory Limitation on Transfer in
5 the office of the county recorder in each county in which
6 any portion of the continuing care retirement
7 community is located.

8 (4) In the event that the applicant or provider and the
9 owner of record are not the same entity or individual on
10 the date on which execution and recordation of the notice
11 is required, the applicant or provider shall serve a copy
12 of the notice on the owner of record by certified mail.

13 (5) The notice shall be indexed by the recorder in the
14 grantor-grantee index to the name of the owner of record
15 and the name of the applicant or provider.

16 (y) A statement that the applicant will keep the
17 department informed of any material changes to the
18 proposed continuing care retirement community plan as
19 reflected in the application form and attachments.

20 (z) Any other information as may be required by the
21 department for the proper administration and
22 enforcement of this chapter.

23 SEC. 55. Section 11837.9 of the Health and Safety
24 Code is amended to read:

25 11837.9. As an element of the program, the probation
26 department may provide any of the face-to-face
27 interviews required pursuant to paragraph (1) of
28 subdivision (a) of Section 11837.4 and may supplement
29 any of the other services required to be provided by a
30 program. The participation of the probation department
31 shall be described in the amendment to the county
32 alcohol program ~~program~~ plan.

33 SEC. 56. Section 18062.8 of the Health and Safety
34 Code is amended to read:

35 18062.8. It is unlawful for any manufacturer or
36 distributor licensed under this part to do any of the
37 following:

38 (a) Refuse or fail to deliver, in reasonable quantities
39 and within a reasonable time after receipt of an order
40 from a dealer having a franchise for the retail sale of any



1 new manufactured home, mobilehome, or commercial
2 coach sold or distributed by the manufacturer or
3 distributor, any new manufactured home, mobilehome,
4 or commercial coach or parts or accessories to new
5 manufactured homes, mobilehomes, or commercial
6 coaches that are covered by the franchise, if the
7 mobilehome or commercial coach, parts or accessories
8 are publicly advertised as being available for delivery or
9 actually being delivered. This subdivision is not violated,
10 however, if the failure is caused by acts or causes beyond
11 the control of the manufacturer or distributor.

12 (b) Prevent or require or attempt to prevent or
13 require, by contract or otherwise, any change in the
14 capital structure of a dealership, if the dealer at all times
15 meets any reasonable capital standards agreed to by the
16 dealer and the manufacturer or distributor, and also
17 provided that no change in capital structure shall cause
18 a change in the principal management or have the effect
19 of a sale of the franchise without the consent of the
20 manufacturer or distributor.

21 (c) Prevent or require, or attempt to prevent or
22 require, a dealer to change the executive management of
23 a dealership, other than the principal dealership operator
24 or operators, if the franchise was granted the dealer in
25 reliance upon the personal qualifications of that person or
26 persons.

27 (d) Prevent or require, or attempt to prevent or
28 require, by contract or otherwise, any dealer, or any
29 officer, partner, or stockholder of any dealership, to
30 participate in the sale or transfer of any part of the
31 interest of any of them to any other person or persons. No
32 dealer, officer, partner, or stockholder shall, however,
33 have the right to sell, transfer, or assign the franchise, or
34 any right thereunder, without the consent of the
35 manufacturer or distributor if the consent is not
36 unreasonably withheld.

37 (e) Prevent, or attempt to prevent, a dealer from
38 receiving fair and reasonable compensation for the value
39 of the franchised business. There shall be no transfer or
40 assignment of the dealer's franchise without the consent



1 of the manufacturer or distributor, if the consent is not
2 unreasonably withheld.

3 (f) Obtain money, goods, services, or any other benefit
4 from any other person with whom the dealer does
5 business, on account of, or in relation to, the transaction
6 between the dealer and any other person, other than for
7 compensation for services rendered, unless the benefit is
8 promptly accounted for, and transmitted to, the dealer.

9 (g) Require a dealer to prospectively assent to a
10 release, assignment, novation, waiver, or estoppel ~~which~~
11 *that* would relieve any person from liability imposed by
12 this part or to require any controversy between a dealer
13 and a manufacturer or distributor to be referred to any
14 person other than the department, if the referral would
15 be binding on the dealer. This subdivision ~~shall~~ *does* not,
16 however, prohibit arbitration before an independent
17 arbitrator.

18 (h) Increase *the* prices of manufactured homes,
19 mobilehomes, or commercial coaches ~~which~~ *that* the
20 dealer ~~had~~ ordered for private retail consumers prior to
21 the dealer's receipt of the written official price increase
22 notification. A sales contract signed by a private retail
23 consumer shall constitute evidence of each order. In the
24 event of manufacturer price reductions, the amount of
25 any reduction received by a dealer shall be passed on to
26 the private retail consumer by the dealer if the retail
27 price was negotiated on the basis of the previous higher
28 price to the dealer. Price reductions shall apply to all
29 manufactured homes, mobilehomes, and commercial
30 coaches in the dealer's inventory ~~which~~ *that* were subject
31 to the price reduction. ~~Price—differences~~ *A price*
32 *difference* applicable to new model or series
33 manufactured homes, mobilehomes, or commercial
34 coaches at the time of the introduction of new models or
35 series shall not be considered a price increase or price
36 decrease. Price changes caused by either of the following
37 shall not be subject to this subdivision:

38 (1) The addition to a manufactured home,
39 mobilehome, or commercial coach of required or
40 optional equipment pursuant to state or federal law.



1 (2) Revaluation of the United States dollar; in the case
2 of foreign-made manufactured homes, mobilehomes, or
3 commercial coaches.

4 (i) Fail to pay to a dealer, within a reasonable time
5 following receipt of a valid claim by a dealer thereof, any
6 payment agreed to be made by the manufacturer or
7 distributor to the dealer by reason of the fact that a new
8 manufactured home, mobilehome, or commercial coach
9 of a prior year model is in the dealer's inventory at the
10 time of introduction of new model manufactured homes,
11 mobilehomes, or commercial coaches. A manufacturer or
12 distributor shall not authorize or enable any new model
13 to be delivered by dealers at retail more than 30 days prior
14 to the eligibility date of the model change allowance
15 payment for prior year model manufactured homes,
16 mobilehomes, or commercial coaches.

17 (j) Deny, *to* the surviving spouse or heirs designated
18 by a deceased owner of a dealership, the opportunity to
19 participate in the ownership of the dealership or
20 successor dealership under a valid franchise for a
21 reasonable time after the death of the owner.

22 (k) Offer any refunds or other types of inducements to
23 any dealer or other person for the purchase of new
24 manufactured homes, mobilehomes, or commercial
25 coaches of a certain make and model to be sold to the state
26 or any political subdivision ~~thereof~~ *of the state* without
27 making the same offer to all other dealers in the same
28 make and model within the relevant market area.

29 (l) Employ a person as a distributor who has not been
30 licensed pursuant to this chapter.

31 (m) Deny any dealer the right of free association with
32 any other dealer for any lawful purpose.

33 (n) Compete with a dealer in the same make and
34 model operating under an agreement or franchise from
35 a manufacturer or distributor in the relevant market area.
36 A manufacturer or distributor shall not, however, be
37 deemed to be competing when operating a dealership
38 either temporarily for a reasonable period, or in a bona
39 fide retail operation ~~which~~ *that* is for sale to any qualified
40 independent person at a fair and reasonable price, or in



1 a bona fide relationship in which an independent person
2 has made a significant investment subject to loss in the
3 dealership and can reasonably expect to acquire full
4 ownership of the dealership on reasonable terms and
5 conditions.

6 (o) Unfairly discriminate among its franchisees with
7 respect to warranty reimbursement or authority granted
8 its franchisees to make warranty adjustments with retail
9 customers.

10 (p) Sell manufactured homes, mobilehomes, or
11 commercial coaches to persons not licensed under this
12 part for resale, except as authorized pursuant to ~~Sections~~
13 *Section* 18015.7 or 18062.9.

14 (q) Fail to exercise reasonable supervision over the
15 activities of employees who negotiate or promote the sale
16 of manufactured homes, mobilehomes, or commercial
17 coaches.

18 SEC. 57. Section 18080.9 of the Health and Safety
19 Code is amended to read:

20 18080.9. (a) An owner of a mobilehome park who
21 obtains a final money judgment for unpaid rent against
22 the registered owner of a manufactured home or
23 mobilehome registered with the department may,
24 subject to subdivision (b), perfect a lien against the
25 manufactured home or mobilehome pursuant to Section
26 18080.7 by filing a form prescribed by the department.
27 The priority of the lien shall be determined in accordance
28 with Article 3 (commencing with Section 18085) and
29 Article 4 (commencing with Section 18098). For purposes
30 of a sale conducted pursuant to Section 18037.5, an owner
31 of a mobilehome park filing a lien pursuant to this section
32 shall be treated as a junior lienholder.

33 (b) Notwithstanding any other provision of law, the
34 department shall accept, for the purposes of the
35 perfection of a lien pursuant to this section, a certified
36 copy of either the final money judgment or an abstract of
37 the final money judgment in lieu of the certificate of title,
38 registration card, or signatures otherwise required by
39 subdivision (a) of Section 18080.7.



1 (c) Upon satisfaction of the final money judgment, a
2 lien perfected pursuant to this section shall be released in
3 accordance with Section 18100.5.

4 (d) A lien created pursuant to this section shall not be
5 subject to execution; pursuant to Chapter 3
6 (commencing with Section 699.010) of Division 2 of Title
7 9 of Part 2 of the Code of Civil Procedure or in any other
8 manner.

9 (e) If the final money judgment for unpaid rent
10 against a registered owner covers any portion of the
11 period for which a legal owner or junior lienholder is
12 required to pay past due obligations of the registered
13 owner pursuant to Section 798.56a of the Civil Code, the
14 amount of the lien created by this section shall be reduced
15 by the amount required to be paid by the legal owner or
16 junior lienholder pursuant to Section 798.56a of the Civil
17 Code.

18 (f) A surrender of ownership interest by the registered
19 owner of a mobilehome or manufactured home to the
20 legal owner shall operate as a matter of law to divest the
21 registered owner of any claim to possession or title to the
22 mobilehome or manufactured home and shall be
23 effective upon acceptance of that surrender by the legal
24 owner. Any judgment lien filed pursuant to this section
25 on a mobilehome or manufactured home ~~which~~ *that* is
26 thereafter surrendered to the legal owner shall be
27 extinguished by any of the following:

28 (1) If the proceeds of the sale of the surrendered
29 mobilehome or manufactured home by the legal owner
30 to a third party after the surrender is effective are not
31 sufficient to satisfy the amount due to the legal owner by
32 the registered owner under a security agreement,
33 promissory note, or other debt instrument secured by the
34 mobilehome or manufactured home.

35 (2) If the proceeds of the sale of the surrendered
36 mobilehome or manufactured home by the legal owner
37 to a third party after the surrender is effective are
38 sufficient to satisfy the amount due the legal owner by the
39 registered owner under a security agreement,
40 promissory note, or other debt instrument secured by the



1 mobilehome or manufactured home, but there are no
2 surplus funds available for payment to the junior
3 lienholder.

4 (3) Upon payment of any surplus proceeds owed to the
5 junior lienholder if the proceeds of the sale of the
6 surrendered mobilehome or manufactured home by the
7 legal owner to a third party after the surrender is
8 effective exceed the amount due to the legal owner from
9 the registered owner under the security agreement,
10 promissory note, or other debt instrument secured by the
11 mobilehome or manufactured home.

12 (g) The completion of a foreclosure on a mobilehome
13 or manufactured home pursuant to ~~the provisions of~~
14 Section 18037.5 shall divest the registered owner of title
15 to the mobilehome or manufactured home by operation
16 of law. The foreclosure shall (A) make ~~of~~ any judgment
17 lien created pursuant to this section invalid and
18 unenforceable, and (B) extinguish and bar any levy upon
19 a judgment lien perfected pursuant to this section.
20 Except to the extent that surplus proceeds from the
21 foreclosure sale were paid to the judgment creditor
22 under the judgment lien perfected pursuant to this
23 section, nothing in this subdivision shall be deemed to
24 extinguish, satisfy, or reduce in any way the final money
25 judgment owed by the former registered owner for
26 unpaid rent.

27 (h) If the money judgment has been satisfied and the
28 judgment creditor fails without just cause to comply with
29 Section 18100.5 within 20 days from the date the
30 judgment creditor's lien is satisfied, the judgment
31 creditor is liable for all damages sustained by reason of
32 that failure and shall also forfeit ~~\$100~~ *one hundred dollars*
33 (*\$100*) to the person who sustained those damages. In any
34 action to enforce this provision, the court shall award
35 reasonable attorney's fees to the prevailing party. Where
36 the prevailing party is someone other than the judgment
37 creditor, the court shall order the department to remove
38 the lien from the manufactured home or mobilehome
39 record. A copy of the court order may be submitted to the



1 department as evidence that the judgment creditor’s lien
2 has been satisfied.

3 SEC. 58. The heading of Chapter 7 (commencing
4 with Section 18965) of Part 2.5 of Division 13 of the Health
5 and Safety Code is repealed.

6
7 ~~CHAPTER 7.—CONSTRUCTION INSPECTORS, PLANS~~
8 ~~EXAMINERS, AND BUILDING OFFICIALS~~
9

10 SEC. 59. The heading of Chapter 7 (commencing
11 with Section 18949.25) of Part 2.5 of Division 13 of the
12 Health and Safety Code is added, to read:

13
14 CHAPTER 7. CONSTRUCTION INSPECTORS, PLANS
15 EXAMINERS, AND BUILDING OFFICIALS
16

17 SEC. 60. Section 18965 of the Health and Safety Code
18 is amended and renumbered to read:

19 ~~18965.~~

20 *18949.25.* For purposes of this ~~article~~ *chapter*,
21 “construction inspector” means any person who is hired
22 or contracted by a local agency in a temporary or
23 permanent capacity; for the purpose of inspecting
24 construction for structural, seismic safety, fire and life
25 safety, or building system requirements of adopted
26 uniform codes or standards, as applied to residential,
27 commercial, or industrial buildings.

28 SEC. 61. Section 18966 of the Health and Safety Code
29 is amended and renumbered to read:

30 ~~18966.~~

31 *18949.26.* For purposes of this ~~article~~ *chapter*, “plans
32 examiner” means any person who is hired or contracted
33 by a local agency in a temporary or permanent capacity;
34 for the purpose of performing construction plan review
35 for structural ~~or~~ seismic safety, fire and life safety, or
36 building system requirements of adopted uniform codes
37 or standards, as applied to residential, commercial, or
38 industrial buildings.

39 SEC. 62. Section 18967 of the Health and Safety Code
40 is amended and renumbered to read:



1 ~~18967.~~
 2 18949.27. For purposes of this ~~article~~ *chapter*,
 3 “building official” means the individual invested with the
 4 responsibility for overseeing local code enforcement
 5 activities, including administration of the building
 6 department, interpretation of code requirements, and
 7 direction of the code adoption process.

8 SEC. 63. Section 18968 of the Health and Safety Code
 9 is amended and renumbered to read:

10 ~~18968.~~
 11 18949.28. (a) All construction inspectors, plans
 12 examiners and building officials who are not exempt from
 13 the requirements of this ~~article~~ *chapter* pursuant to
 14 subdivision (b), or previously certified, shall complete
 15 one year of verifiable experience in the appropriate field,
 16 and shall, within one year thereafter, obtain certification
 17 from a recognized state, national, or international
 18 association, as determined by the local agency. The area
 19 of certification shall be closely related to the primary job
 20 function, as determined by the local agency.

21 (b) Any person who is currently and has continuously
 22 been employed as a construction inspector, plans
 23 examiner, or building official; for not less than two years
 24 prior to the effective date of this section shall be exempt
 25 from the certification provisions of this section, unless and
 26 until that person obtains employment as a construction
 27 inspector, plans examiner, or building official with a
 28 different employer.

29 (c) Nothing in this article is intended to prohibit a local
 30 agency from prescribing additional criteria for the
 31 certification of construction inspectors, plans examiners,
 32 or building officials.

33 (d) Nothing in this chapter, as it relates to construction
 34 inspectors, plans examiners, or building officials, shall be
 35 construed to alter the requirements for licensure, or the
 36 jurisdiction, authority, or scope of practice, of architects
 37 pursuant to Chapter 3 (commencing with Section 5500)
 38 of Division 3 of the Business and Professions Code,
 39 professional engineers pursuant to Chapter 7
 40 (commencing with Section 6700) of Division 3 of the



1 Business and Professions Code, or land surveyors
2 pursuant to Chapter 15 (commencing with Section 8700)
3 of Division 3 of the Business and Professions Code.

4 SEC. 64. Section 18969 of the Health and Safety Code
5 is amended and renumbered to read:

6 ~~18969.~~

7 *18949.29.* All construction inspectors, plans
8 examiners, and building officials shall complete a
9 minimum of 45 hours of continuing education for every
10 three-year period.

11 (a) Providers of continuing education may include
12 any organizations affiliated with the code enforcement
13 profession, community colleges, or other providers of
14 similar quality, as determined by the local agency.

15 (b) For purposes of this section, “continuing
16 education” is defined as that education relating to the
17 enforcement of Title 24 of the California Code of
18 Regulations, and any other locally enforced building and
19 construction standards, including, but not limited to, the
20 model uniform codes adopted by the state. When a local
21 agency selects a model code organization as a provider of
22 continuing education or certification programs regarding
23 the enforcement of a model code adopted by the state,
24 the local agency shall give preference to the organization
25 responsible for promulgating or drafting that model code.

26 SEC. 65. Section 18970 of the Health and Safety Code
27 is amended and renumbered to read:

28 ~~18970.~~

29 *18949.30.* This chapter ~~shall~~ *does* not apply to a
30 registered professional engineer, licensed land surveyor,
31 or licensed architect rendering construction inspection
32 services, plan examination services, or building official
33 services; within the scope of his or her registration or
34 licensure, except that this chapter ~~shall~~ *apply* *applies* to
35 a registered professional engineer, licensed land
36 surveyor, or licensed architect who is an employee of a
37 local agency. This chapter ~~shall~~ *does* not apply to a
38 construction inspector or plans examiner employed by
39 any city or county fire department or district providing
40 fire protection services.



1 SEC. 66. Section 18971 of the Health and Safety Code
2 is amended and renumbered to read:

3 ~~18971.~~

4 ~~18949.31.~~ The local agency shall bear the costs of
5 certification, certification renewal, and continuing
6 education, as mandated by this ~~article~~ *chapter*. The local
7 agency may impose fees, including, but not limited to,
8 fees for construction inspection and plan checks, which
9 may be used to cover the costs of compliance with this
10 ~~article~~ *chapter*. A local agency’s actual costs of
11 compliance with this ~~article~~ *chapter* may include, but are
12 not limited to, training and certification courses,
13 certification exam and renewal fees, employee salary
14 during training and certification courses, and mileage
15 and other reimbursable costs incurred by the employee.
16 The fees imposed to cover the costs of compliance with
17 this ~~article~~ *chapter* shall reflect these actual costs, and are
18 not limited by Chapter 5 of Division 1 of Title 7.

19 SEC. 67. Section 25158.4 of the Health and Safety
20 Code is amended to read:

21 25158.4. (a) On or before April 30, 1996, the
22 department shall adopt regulations for the management
23 of treatability studies.

24 (b) The regulations that are adopted pursuant to
25 subdivision (a) shall be consistent with subdivisions (e)
26 and (f) of Section 261.4 of Title 40 of the Code of Federal
27 Regulations, as adopted pursuant to the federal act,
28 provided that the regulations may apply to hazardous
29 waste not regulated under the federal act, as well as to
30 hazardous waste subject to regulation under the federal
31 act.

32 (c) The department shall amend the regulations
33 adopted pursuant to subdivision (a); to maintain
34 consistency with subdivisions (e) and (f) of Section 261.4
35 of Title 40 of the Code of Federal Regulations, as adopted
36 pursuant to the federal act.

37 (d) For purposes of this section, “treatability study”
38 shall have the same meaning as in Section 260.10 of Title
39 40 of the Code of Federal Regulations, as adopted
40 pursuant to the federal act.



1 (e) (1) Not later than January 1, 2002, the
2 Department of Toxic Substances Control shall submit a
3 report to the Legislature on the risks and benefits of the
4 regulations adopted pursuant to this section. The report
5 shall evaluate all of the following:

6 (A) The effect of the regulations on the development
7 of hazardous waste treatment technologies and
8 businesses in California.

9 (B) Risks to health and the environment, if any, that
10 have resulted from the transportation and study of waste
11 under the regulations.

12 (C) The types of treatability studies that have been
13 conducted under the regulations, and whether there has
14 been any misuse of the regulations.

15 (2) The report shall propose revisions in the law
16 needed to address any problems identified by the report.

17 (f) This section shall remain in effect only until
18 January 1, 2003, and as of that date is repealed, unless a
19 later enacted statute, which is enacted before January 1,
20 2003, deletes ~~or~~ extends that date.

21 SEC. 68. Section 25198 of the Health and Safety Code
22 is amended to read:

23 25198. (a) For purposes of this section, “state
24 department” means the State Department of Health
25 Services.

26 (b) Except as provided in subdivision (c), the analysis
27 of any material required by this chapter shall be
28 performed by a laboratory certified by the state
29 department pursuant to ~~Chapter 7.5 Article 3~~
30 (commencing with Section ~~1010 100825~~) of *Chapter 4 of*
31 *Part 2 1* of Division ~~1~~ *101*, except that laboratories
32 previously issued a certificate under this section shall be
33 deemed certified until the time that certification under
34 ~~Chapter 7.5 Article 3~~ (commencing with Section ~~1010~~
35 *100825*) of *Chapter 4 of Part 2 1* of Division ~~1~~ *101* has been
36 either granted or denied, but not beyond the expiration
37 date shown on the certificate previously issued under this
38 section.

39 (c) The requirements of subdivision (b) shall not
40 apply to analyses performed by a laboratory pursuant to



1 the facility's waste analysis plan, ~~which~~ *that* is prepared
2 in accordance with the regulations adopted by the
3 Department of Toxic Substances Control pursuant to this
4 chapter, if both of the following conditions are met:

5 (1) The laboratory is owned or operated by the same
6 person who owns or operates the facility at which the
7 waste will be managed, and the facility is a hazardous
8 waste treatment, storage, or disposal facility that is
9 required to obtain a hazardous waste facilities permit
10 pursuant to Article 9 (commencing with Section 25200).

11 (2) The analysis is conducted for any of the following
12 purposes:

13 (A) To determine whether a facility will accept the
14 hazardous waste for transfer, storage, or treatment, as
15 described in paragraph (3) of subdivision (a) of Section
16 66264.13 of, and paragraph (3) of subdivision (a) of
17 Section 66265.13 of, Title 22 of the California Code of
18 Regulations, as those sections read on January 1, 1996.

19 (B) To ensure that the analysis used to determine
20 whether a facility will accept the hazardous waste for
21 transfer, storage, or treatment is accurate and up to date,
22 as described in paragraph (4) of subdivision (a) of Section
23 66264.13 of, and paragraph (4) of subdivision (a) of
24 Section 66265.13 of, Title 22 of the California Code of
25 Regulations, as those sections read on January 1, 1996.

26 (C) To determine whether the hazardous waste
27 received at the facility for transfer, storage, or treatment
28 matches the identity of the hazardous waste designated
29 on an accompanying manifest or shipping paper, as
30 described in paragraph (5) of subdivision (a) of Section
31 66264.13 of, and paragraph (5) of subdivision (a) of
32 Section 66265.13 of, the California Code of Regulations, as
33 those sections read on January 1, 1996.

34 (d) An analysis performed in accordance with
35 subdivision (c) is not an analysis performed for regulatory
36 purposes within the meaning of paragraph (4) of
37 subdivision (c) of Section ~~1010~~ 100825.

38 (e) The exemption provided by subdivision (c) does
39 not exempt the analyses of waste for purposes of disposal
40 from the requirements of subdivision (b) requiring



1 certified laboratory analyses. The analyses described in
2 subdivision (c) are not exempt from any other
3 requirement of law, regulation, or guideline governing
4 quality assurance and quality control.

5 (f) No person or public entity of the state shall contract
6 with a laboratory for environmental analyses for which
7 certification is required pursuant to this chapter, unless
8 the laboratory holds a valid certificate from the state
9 department.

10 (g) This section shall remain in effect until January 1,
11 2001, ~~as~~ and as of that date is repealed, unless a later
12 enacted statute, which is enacted on or before January 1,
13 2001, deletes or extends that date.

14 SEC. 69. Section 25201.1 of the Health and Safety
15 Code is amended to read:

16 25201.1. (a) A solid waste facility, as defined in
17 Section 40194 of the Public Resources Code, or any
18 recycling facility, that accepts and processes empty
19 aerosol cans and de minimus quantities of nonempty
20 aerosol cans collected as an incidental part of the
21 collection of empty cans for recycling, is exempt from the
22 requirement to obtain a hazardous waste facilities permit
23 or other authorization from the department for purposes
24 of conducting that activity if both of the following
25 conditions are met:

26 ~~(a)~~

27 (1) The nonempty aerosol cans are from products that
28 are normally intended for household use and were
29 generated by households.

30 ~~(b)~~

31 (2) The city, county, or regional agency in the area
32 ~~which~~ *that* the facility serves provides educational
33 information to the public on the safe collection and
34 recycling or disposal of empty and nonempty aerosol cans
35 that encourages, to the maximum extent feasible, the
36 separation and recycling of empty aerosol cans; through
37 such programs as curbside, dropoff, and buy-back
38 recycling programs, and the diversion of nonempty
39 aerosol cans into household hazardous waste collection
40 programs. Issues of compliance with this subdivision shall



1 be determined by the California Integrated Waste
2 Management Board or by the appropriate local
3 enforcement agency.

4 ~~(e)~~

5 (b) This section is not intended to alter the obligation
6 to manage as a hazardous waste any nonempty aerosol
7 cans ~~which~~ *that* meet the requirements of Section 25117,
8 and ~~which~~ *that* are not subject to the exemption provided
9 in this section.

10 ~~(d)~~

11 (c) Nothing in this section exempts a solid waste
12 facility that engages in an activity that requires a
13 hazardous waste facility permit, other than the
14 acceptance and processing of empty aerosol cans and de
15 minimus quantities of nonempty aerosol cans as an
16 incidental part of the collection of empty cans for
17 recycling, from the requirement of obtaining a hazardous
18 waste facilities permit.

19 SEC. 70. Section 25218.11 of the Health and Safety
20 Code is amended to read:

21 25218.11. (a) On or before March 31, 1996, the
22 department shall develop a separate and distinct
23 regulatory structure for the permitting of permanent
24 household hazardous waste facilities ~~which~~ *that* conduct
25 the activities specified in subdivision (b). The regulations
26 shall simplify the permitting of facilities and encourage
27 the collection of material and shall be not more
28 burdensome than is necessary to protect the public health
29 and safety. The regulations adopted to implement this
30 section shall ~~weigh~~ *balance* public safety considerations of
31 household hazardous waste collection with the safety and
32 environmental considerations of illegal disposal.

33 (b) The regulations adopted pursuant to subdivision
34 (a) shall apply only to household hazardous *waste*
35 collection activities that are operated by a public agency,
36 or its contractor, and that ~~only~~ accept *only* household
37 hazardous waste or hazardous waste collected from
38 conditionally exempt small quantity generators. The
39 regulations shall require that, prior to the
40 commencement of the activities specified in this



1 subdivision, the activities shall be authorized by the
2 department.

3 SEC. 71. Section 27622.5 of the Health and Safety
4 Code is amended and renumbered to read:

5 ~~27622.5.~~

6 114086. It is the intent of the Legislature that the
7 California Uniform Retail Food Facilities Law Revision
8 Committee, in its effort to bring forward a uniform state
9 food health code that is appropriate for every type of
10 retail food facility, recommend internal cooking
11 temperatures and time ratios that kill the Escherichia
12 Coli 0157: H₇ (E-Coli) bacteria in ground beef of 145
13 degrees Fahrenheit for three minutes; 150 degrees
14 Fahrenheit for one minute; ~~or~~ 155 degrees Fahrenheit for
15 15 seconds; or as otherwise approved by the State
16 Department of Health Services.

17 SEC. 72. Section 27623 of the Health and Safety Code
18 is amended and renumbered to read:

19 ~~27623.~~

20 114090. (a) All utensils and equipment shall be
21 ~~scrapped~~ *scraped*, cleaned, or sanitized as circumstances
22 require.

23 (b) All food establishments in which food is prepared
24 or in which multiservice kitchen utensils are used shall
25 have a sink with at least three compartments with two
26 integral metal drainboards. Additional drainage space
27 may be provided that is not necessarily attached to the
28 sink. The sink compartments and drainage facilities shall
29 be large enough to accommodate the largest utensil or
30 piece of equipment to be cleaned therein. A
31 one-compartment or two-compartment sink that is in use
32 on January 1, 1996, may be continued in use until
33 replaced. The enforcement officer may approve the
34 continued use of a one-compartment or
35 two-compartment sink even upon replacement if the
36 installation of a three-compartment sink would not be
37 readily achievable and where other approved sanitation
38 methods are used.

1 (c) All food establishments in which multiservice
2 consumer utensils are used shall clean the utensils in one
3 of the following ways:

4 (1) Handwashing of utensils using a
5 three-compartment metal sink with dual integral metal
6 drainboards where the utensils are first washed by hot
7 water and a cleanser until they are clean, then rinsed in
8 clear, hot water before being immersed in a final warm
9 solution meeting the requirements of Section ~~27613~~
10 *114060*.

11 (2) Machine washing of utensils in machines using a
12 hot water or chemical sanitizing rinse shall meet or be
13 equivalent to sanitation standards approved pursuant to
14 Section ~~27614~~ *114065* and shall be installed and operated
15 in accordance with those standards. The machines shall
16 be of a type, and shall be installed and operated as
17 approved by the department. The velocity, quantity, and
18 distribution of the washwater, type and concentration of
19 detergent used therein, and the time the utensils are
20 exposed to the water, shall be sufficient to clean the
21 utensils. All new spray-type dish machines designed for
22 hot water sanitizing shall be equipped with a self-sealing
23 temperature and pressure test plug. The test plug shall be
24 located immediately upstream of the rinse manifold in a
25 horizontal position and on the machine exterior.

26 (3) A two-compartment metal sink, having metal
27 drainboards, equipped for hot water sanitization, which
28 is in use on January 1, 1985, may be continued in use until
29 replaced.

30 (4) Other methods may be used after approval by the
31 department.

32 (d) Hot and cold water under pressure shall be
33 provided through a mixing valve to each sink
34 compartment in all food establishments constructed on or
35 after January 1, 1985.

36 (e) All utensil washing equipment, except
37 undercounter dish machines, shall be provided with two
38 integral metal drainboards of adequate size and
39 construction. One drainboard shall be attached at the
40 point of entry for soiled items and one shall be attached



1 at the point of exit for cleaned and sanitized items. Where
2 an undercounter dish machine is used, there shall be two
3 metal drainboards, one for soiled utensils and one for
4 clean utensils, located adjacent to the machine. The
5 drainboards shall be sloped and drained to an approved
6 waste receptor. This requirement may be satisfied by
7 using the drainboards appurtenant to sinks as required in
8 subdivision (b) and paragraph (1) of subdivision (c), if
9 the facilities are located adjacent to the machine.

10 (f) The handling of cleaned and soiled utensils,
11 equipment, and kitchenware shall be undertaken in a
12 manner ~~which~~ *that* will preclude possible contamination
13 of cleaned items with soiled items.

14 (g) All utensils, display cases, windows, counters,
15 shelves, tables, refrigeration units, sinks, dishwashing
16 machines, and other equipment or utensils used in the
17 preparation, sale, service, and display of food shall be
18 made of nontoxic, noncorrosive materials, shall be
19 constructed, installed, and maintained to be easily
20 cleaned, and shall be kept clean and in good repair.

21 (h) Utensils and equipment shall be handled and
22 stored so as to be protected from contamination.
23 Single-service utensils shall be obtained only in sanitary
24 containers or approved sanitary dispensers, stored in a
25 clean, dry place until used, handled in a sanitary manner,
26 and used once only.

27 (i) Equipment food-contact surfaces and utensils shall
28 be cleaned and sanitized as follows:

29 (1) Each time there is a change in processing between
30 types of animal products except when products are
31 handled in the following order: any cooked ready-to-eat
32 products first; raw beef and lamb products second; raw
33 fish products third; and raw pork or poultry products last.

34 (2) Each time there is a change from working with raw
35 foods of animal origin to working with ready-to-eat foods.

36 (3) Between uses with raw fruits or vegetables and
37 with potentially hazardous food.

38 (4) Before each use of a food temperature measuring
39 device.



1 (5) At any time during the food handling operation
2 when contamination may have occurred.

3 (j) (1) Except as provided in paragraphs (2) and (3)
4 of this subdivision, if used with potentially hazardous
5 food, equipment food-contact surfaces and utensils shall
6 be cleaned throughout the day at least every four hours.

7 (2) Equipment food-contact surfaces and utensils may
8 be cleaned less frequently than every four hours if the
9 utensils and equipment are used to prepare food in a
10 refrigerated room, at or below 13 degrees Celsius (55
11 degrees Fahrenheit), and the utensils and equipment are
12 cleaned at least every 24 hours.

13 (3) Equipment food-contact surfaces and utensils may
14 be cleaned less frequently than every four hours if the
15 enforcement agency approves the cleaning schedule
16 utilized based on a consideration of the following factors:

17 (A) Characteristics of the equipment and its use.

18 (B) The type of food involved.

19 (C) The amount of food residue accumulation.

20 (D) The temperature at which the food is maintained
21 during the operation and the potential for the rapid and
22 progressive growth of infectious or ~~toxicogenic~~ *toxigenic*
23 microorganisms that may cause food infections or food
24 intoxications.

25 (k) Nonfood contact surfaces of equipment shall be
26 cleaned at a frequency necessary to prevent
27 accumulation of residue.

28 SEC. 73. Section 41503.6 of the Health and Safety
29 Code is amended to read:

30 41503.6. (a) The Legislature finds and declares that
31 the California Pollution Control Financing Authority and
32 the Department of Commerce, working with the ~~South~~
33 ~~Coast Air Quality Management District~~ *south coast*
34 *district*, have established successful programs to assist
35 small businesses in complying with district rules and
36 financing the purchase of pollution control equipment.

37 (b) The Treasurer, the California Pollution Control
38 Financing Authority, and the Department of Commerce
39 shall work with, and provide all feasible assistance to,
40 districts to increase opportunities for small businesses to



1 comply with the rules and regulations of the district. That
2 assistance may include loans, loan guarantees, and other
3 forms of financial assistance.

4 SEC. 74. Section 44017 of the Health and Safety Code
5 is amended to read:

6 44017. (a) Except as otherwise provided in this
7 section, the cost limit for repairs under the program,
8 including parts and labor, shall be a minimum of four
9 hundred fifty dollars (\$450) in all areas where the
10 program operates.

11 (b) The limit established pursuant to subdivision (a)
12 shall not become operative until the department issues a
13 public notice ~~which declares~~ *declaring* that the program
14 established pursuant to Section 44010.5 is operational in
15 the relevant geographical areas of the state, or until the
16 date that testing in those geographic areas is operative
17 using loaded mode test equipment, as defined in this
18 article, whichever occurs first. Prior to that time, the
19 following cost limits shall remain in effect:

20 (1) For motor vehicles of 1971 and earlier model years,
21 fifty dollars (\$50).

22 (2) For motor vehicles of 1972 to 1974, inclusive, model
23 years, ninety dollars (\$90).

24 (3) For motor vehicles of 1975 to 1979, inclusive, model
25 years, one hundred twenty-five dollars (\$125).

26 (4) For motor vehicles of 1980 to 1989, inclusive, model
27 years, one hundred seventy-five dollars (\$175).

28 (5) For motor vehicles of 1990 and later model years,
29 three hundred dollars (\$300).

30 (c) The department shall periodically revise the cost
31 limits specified in subdivisions (a) and (b) in accordance
32 with changes in the Consumer Price Index, as published
33 by the United States Bureau of Labor Statistics.

34 (d) No cost limit shall be imposed in those cases where
35 emissions control equipment is missing or is partially or
36 totally inoperative as a result of being tampered with or
37 when the vehicle has been identified as a gross polluter
38 pursuant to Section 44081 and verified as a gross polluter
39 at a test-only station. The cost limits prescribed pursuant
40 to this section, when implemented, shall not be imposed



1 on vehicles identified as gross polluters prior to repairs at
2 a smog check station. However, if there is no evidence of
3 tampering and the vehicle owner has had repairs
4 performed as necessary to bring the vehicle's emissions
5 below the appropriate threshold established for gross
6 polluters, the emission cost waiver provisions shall apply.

7 (e) A one-time 12-month economic hardship
8 extension from the biennial certificate of compliance
9 requirement may be granted, pursuant to the program
10 established by the department pursuant to Section
11 44015.3, to consumers who would be subject to repair
12 costs in excess of the ~~extension~~ limit established by the
13 department if the requirements specified in paragraph
14 (2) of subdivision (c) of Section 44015 are met. The
15 economic hardship extension shall constitute neither a
16 certificate of compliance nor a certificate of
17 noncompliance for the purpose of transferring the
18 ownership or the registration of the vehicle. On or before
19 the expiration date of the economic hardship extension,
20 the vehicle shall be brought fully into compliance with all
21 appropriate emission standards as determined by a test in
22 accordance with Section 44012 at a test-only station. The
23 emission cost waiver provisions shall not apply to those
24 vehicles.

25 SEC. 75. Section 44085 of the Health and Safety Code
26 is amended to read:

27 44085. Districts may establish procedures to generate
28 marketable emission reduction credits from programs
29 established pursuant to ~~Sections 44083 and~~ *Section* 44084.
30 Emission reduction credits generated pursuant to this
31 section may be used to meet or offset transportation
32 control requirements, average vehicle ridership
33 reductions, or other mobile source emission
34 requirements, as determined by the district.

35 SEC. 76. Section 44220 of the Health and Safety Code
36 is amended to read:

37 44220. The Legislature hereby finds and declares as
38 follows:

39 (a) This chapter is intended to ensure that any county
40 air pollution control district, or unified or regional air



1 pollution control district, may, upon adoption of a
2 resolution by the district governing board, exercise fee
3 authority similar to that provided the south coast district
4 pursuant to Section 9250.11 of the Vehicle Code and the
5 Sacramento district pursuant to Section 41081, in order to
6 ensure that districts, and, in the ~~South Coast Air Quality~~
7 ~~Management District~~ *south coast district*, other
8 implementing agencies, have the necessary funds to
9 carry out their responsibilities for implementing the
10 California Clean Air Act of 1988 (Chapter 1568 of the
11 Statutes of 1988).

12 (b) The revenues from the fees collected pursuant to
13 this chapter shall be used solely to reduce air pollution
14 from motor vehicles and for related planning,
15 monitoring, enforcement, and technical studies
16 necessary for the implementation of the California Clean
17 Air Act of 1988.

18 SEC. 77. Section 10082 of the Insurance Code is
19 amended to read:

20 10082. (a) The offer required by Section 10081 shall
21 include coverage against risk of loss or damage from the
22 peril of earthquake, in accordance with the minimum
23 coverages required by subdivisions (a) and (b) of Section
24 10089.

25 (b) The earthquake coverage shall be in accordance
26 with the insurer's rules and rating plan, provided,
27 however, that nothing contained in this chapter shall
28 require an insurer to issue a policy of residential property
29 insurance except in accordance with the insurer's usual
30 underwriting standards. However, ~~such standard~~ *those*
31 *standards* shall not permit an insurer to provide a policy
32 of residential property insurance unless the offer of
33 coverage required by this chapter is made.

34 SEC. 78. Section 10083 of the Insurance Code is
35 amended to read:

36 10083. (a) The offer of coverage required by Section
37 10081 may be made prior to, concurrent with, or within
38 60 days following the issuance or renewal of a residential
39 property insurance policy. If the offer of coverage is
40 mailed to the named insured or applicant, it shall be

1 mailed to the mailing address shown on the policy of
2 residential property insurance or on the application. The
3 offer of earthquake coverage shall contain the following
4 language in at least 10-point ~~bold~~ *boldface* type face:

5 YOUR POLICY DOES NOT PROVIDE COVERAGE
6 AGAINST THE PERIL OF EARTHQUAKE.

7 CALIFORNIA LAW REQUIRES THAT
8 EARTHQUAKE COVERAGE BE OFFERED TO YOU
9 AT YOUR OPTION.

10 WARNING: THESE COVERAGES MAY DIFFER
11 SUBSTANTIALLY FROM AND PROVIDE LESS
12 PROTECTION THAN THE COVERAGE PROVIDED
13 BY YOUR HOMEOWNERS' INSURANCE POLICY.
14 THERE ARE EXCLUSIONS AND LIMITATIONS
15 SUCH AS OUTBUILDINGS, SWIMMING POOLS,
16 MASONRY FENCES, AND MASONRY CHIMNEYS.
17 THIS DISCLOSURE FORM CONTAINS ONLY A
18 GENERAL DESCRIPTION OF COVERAGES AND IS
19 NOT PART OF YOUR EARTHQUAKE INSURANCE
20 POLICY. ONLY THE SPECIFIC PROVISIONS OF
21 YOUR POLICY WILL DETERMINE WHETHER A
22 PARTICULAR LOSS IS COVERED AND, IF SO, THE
23 AMOUNT PAYABLE.

24 THE COVERAGE, SUBJECT TO POLICY
25 PROVISIONS, MAY BE PURCHASED AT
26 ADDITIONAL COST ON THE FOLLOWING TERMS:

27 (A) AMOUNT OF DWELLING COVERAGE:

28 _____
29 (B) APPLICABLE DEDUCTIBLE: _____ IF
30 YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY
31 NOT RECEIVE ANY PAYMENT FROM YOUR
32 COVERAGE.

33 YOUR INSURANCE COMPANY OR AGENT WILL
34 PROVIDE WRITTEN NOTICE AS TO HOW THE
35 DEDUCTIBLE APPLIES TO THE MARKET VALUE
36 OF YOUR COVERAGE, THE INSURED VALUE OF
37 YOUR COVERAGE, OR THE REPLACEMENT VALUE
38 OF YOUR COVERAGE.

39 (C) CONTENTS COVERAGE: _____



1 IF YOUR LOSS DOES NOT EXCEED THE
2 DEDUCTIBLE FOR THE DWELLING, YOU WILL
3 NOT RECEIVE ANY PAYMENT FOR THIS
4 COVERAGE.

5 YOUR INSURANCE COMPANY OR AGENT WILL
6 PROVIDE WRITTEN NOTICE AS TO HOW THE
7 DEDUCTIBLE APPLIES TO THE AMOUNT YOU
8 RECEIVE PURSUANT TO THIS COVERAGE.

9 (D) ADDITIONAL LIVING EXPENSES: ____

10 (E) RATE OR PREMIUM: ____

11 YOU MUST ASK THE COMPANY TO ADD
12 EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM
13 THE DATE OF MAILING OF THIS NOTICE OR IT
14 SHALL BE CONCLUSIVELY PRESUMED THAT YOU
15 HAVE NOT ACCEPTED THIS OFFER.

16 THIS COVERAGE SHALL BE EFFECTIVE ON THE
17 DAY YOUR ACCEPTANCE OF THIS OFFER IS
18 RECEIVED BY US.

19 When the insurer, agent, or broker establishes delivery
20 of the disclosure form by obtaining the signature of the
21 applicant or insured, or when an insurer, agent, or broker
22 provides the applicant with the disclosure form and the
23 applicant does not return a signed acknowledgment of
24 receipt within 60 days of the date it was provided, there
25 shall be a conclusive presumption that the insurer, agent,
26 or broker has complied with the disclosure requirements
27 of this section.

28 (b) The offer may contain additional provisions not in
29 conflict with or in derogation of the foregoing.

30 (c) Use of the language prescribed by this section shall
31 constitute compliance with the requirements of Section
32 10081 by an insurer subject thereto.

33 SEC. 79. Section 10089.40 of the Insurance Code is
34 amended to read:

35 10089.40. (a) Rates established by the authority shall
36 be actuarially sound and shall not be excessive,
37 inadequate, or unfairly discriminatory. Rates shall be
38 established based on the best available scientific
39 information for assessing the risk of earthquake loss.



1 Factors the board shall consider in adopting rates include,
2 but are not limited to, the following:

3 (1) Location of the insured property and its proximity
4 to earthquake faults and to other geological factors that
5 affect the risk of earthquake or damage from earthquake.

6 (2) The soil type on which the insured dwelling is built.

7 (3) Construction type and features of the insured
8 dwelling.

9 (4) Age of the insured dwelling.

10 (5) The presence of earthquake hazard reduction
11 factors, including those set forth in subdivision (a) of
12 Section 10089.2.

13 (b) The classification system established by the board
14 shall not be adjusted or tempered in any way to provide
15 rates lower than are justified for classifications that
16 present a high risk of loss or higher than are justified for
17 classifications that present a low risk of loss.

18 (c) Policyholders who have retrofitted their homes to
19 withstand earthquake shake damage according to
20 standards and to the extent set by the board shall enjoy
21 a premium discount or credit of not less than 5 percent
22 on ~~he~~ *the* authority-issued policy of residential
23 earthquake coverage, as long as the discount or credit is
24 determined actuarially sound by the authority.

25 (d) All rates shall be approved by the commissioner
26 prior to their use.

27 SEC. 80. Section 10089.7 of the Insurance Code, as
28 added by Chapter 848 of the Statutes of 1995, is amended
29 and renumbered to read:

30 ~~10089.7.~~

31 *10089.70.* The department shall establish a pilot
32 program for the mediation of the disputes between
33 insured complainants and insurers arising out of the
34 Northridge earthquake of 1994 or any subsequent
35 earthquake. The pilot program shall apply only to
36 personal lines of insurance related to residential
37 coverage. The goal of the pilot program shall be to
38 favorably resolve a statistically significant number of
39 disputes sent to mediation under the program. This
40 chapter does not apply to any dispute that turns on a



1 question of major insurance coverage or a purely legal
2 interpretation, or disputes involving the actions of an
3 agent or broker in which the insurer is not alleged to have
4 been responsible for the conduct, or any complaint the
5 commissioner finds to be frivolous, or any dispute in
6 which a party is alleged to have committed fraud.

7 SEC. 81. Section 10089.7 of the Insurance Code, as
8 added by Chapter 944 of the Statutes of 1995, is amended
9 to read:

10 10089.7. (a) The authority shall be governed by a
11 three-member governing board consisting of the
12 Governor, the Treasurer, and the Insurance
13 Commissioner, each of whom may name designees to
14 serve as board members in their place. The Speaker of the
15 Assembly and the Chairperson of the Senate ~~Rules~~
16 *Committee on Rules* shall serve as nonvoting, ex officio
17 members of the board, and may name designees to serve
18 in their place.

19 (b) The board shall be advised by an advisory panel
20 whose members shall be appointed by the commissioner,
21 except as provided in this subdivision. The advisory panel
22 shall consist of four members who represent insurance
23 companies that are licensed to transact fire insurance in
24 the state, two licensed insurance agents, one seismologist,
25 one person expert in construction requirements and
26 building codes, and two members of the public not
27 connected with the insurance industry. In addition, the
28 Governor, the Speaker of the Assembly, and the
29 Chairperson of the Senate ~~Rules~~ *Committee may on*
30 *Rules* each *may* appoint one member of the public not
31 connected with the insurance industry. Panel members
32 shall serve for two-year terms, which may be staggered
33 for administrative convenience, and panel members may
34 be reappointed. The commissioner shall be a nonvoting,
35 ex officio member of the panel and shall be entitled to
36 attend all panel meetings, either in person or by
37 representative.

38 (c) The board shall have the power to conduct the
39 affairs of the authority and may perform all acts necessary
40 or convenient in the exercise of that power. Without



1 limitation, the board may: (1) employ or contract with
2 officers and employees to administer the authority; (2)
3 retain outside actuarial, geological, and other
4 professionals; (3) enter into other obligations relating to
5 the operation of the authority; (4) invest the moneys in
6 the California Earthquake Authority Fund; (5) obtain
7 reinsurance and financing for the authority as authorized
8 by this chapter; (6) contract with participating insurers
9 to service the policies of basic residential earthquake
10 insurance issued by the authority; (7) issue bonds payable
11 from and secured by a pledge of the authority of all or any
12 part of the revenues of the authority to finance the
13 activities authorized by this chapter and sell those bonds
14 at public or private sale in the form and on those terms
15 and conditions as the Treasurer shall approve; (8) pledge
16 all or any part of the revenues of the authority to secure
17 bonds and any repayment or reimbursement obligations
18 of the authority to any provider of insurance or a
19 guarantee of liquidity or credit facility entered into to
20 provide for the payment of debt service on any bond of
21 the authority; (9) employ and compensate bond counsel,
22 financial consultants, and other advisers determined
23 necessary by the Treasurer in connection with the
24 issuance and sale of any bonds; (10) issue or obtain from
25 any department or agency of the United States or of this
26 state, or any private company, any insurance or
27 guarantee of liquidity or credit facility determined to be
28 appropriate by the Treasurer to provide for the payment
29 of debt service on any bond of the authority; (11) engage
30 the commissioner to collect revenues of the authority;
31 (12) issue bonds to refund or purchase or otherwise
32 acquire bonds on terms and conditions as the Treasurer
33 shall approve; and (13) perform all acts that relate to the
34 function and purpose of the authority, whether or not
35 specifically designated in this chapter.

36 (d) The authority shall reimburse board and panel
37 members for their reasonable expenses incurred in
38 attending meetings and conducting the business of the
39 authority.



1 (e) (1) There shall be no civil or criminal liability in
2 a private capacity, on account of any act performed or
3 omitted or obligation entered into *in* an official capacity,
4 when done or omitted in good faith and without intent to
5 defraud, on the part of the board, the panel, or any
6 member of either, or on the part of any officer, employee,
7 or agent of the authority.

8 (2) No licensed insurer shall have any antitrust civil or
9 criminal liability under the Cartwright Act (Part 2
10 (commencing with Section 16600) of Division 7 of the
11 Business and Professions Code) by reason of its activities
12 conducted in compliance with this chapter. Further, the
13 California Earthquake Authority shall be deemed a joint
14 arrangement established by statute to ensure the
15 availability of insurance pursuant to subdivision (b) of
16 Section 1861.03.

17 (f) The Attorney General, in his or her discretion, shall
18 provide a representative of his or her office to attend and
19 act as antitrust counsel at all meetings of the panel. The
20 Attorney General shall be compensated for legal service
21 rendered in the manner specified in Section 11044 of the
22 Government Code.

23 (g) The authority may sue or be sued and may employ
24 or contract with that staff and those professionals the
25 board deems necessary for its efficient administration.

26 (h) The authority may contract for the services of a
27 chief executive officer, a chief financial officer, and an
28 operations manager, and may contract for the services of
29 reinsurance intermediaries, financial market
30 underwriters, modeling firms, a computer firm, an
31 actuary, an insurance claims consultant, counsel, and
32 private money managers. These contracts shall not be
33 subject to otherwise applicable provisions of the
34 Government Code ~~and~~ *or* the Public Contract Code, and,
35 for those purposes, the authority shall not be considered
36 a state agency or other public entity. Other employees of
37 the authority shall be subject to civil service provisions.

38 (i) Members of the board and panel, and their
39 designees, and the chief executive officer, the chief
40 financial officer, and the operations manager of the



1 authority shall be required to file ~~financial disclosure~~
2 statements of *economic interests* with the Fair Political
3 Practices Commission. The appointing authorities for
4 members and designees of the board and panel shall,
5 when making appointments, avoid appointing persons
6 with conflicts of interest. Section 87406 of the
7 Government Code, the Milton Marks Postgovernment
8 Employment Restrictions Act of 1990, shall apply to the
9 authority. Members of the panel shall be deemed to be
10 designated employees for the purpose of that act. In
11 addition, no person who is employed as a regular or
12 contract employee of the authority shall, upon leaving the
13 employment of the authority, seek, accept, or enter into
14 employment or a consulting or other contractual
15 arrangement for ~~the~~ a period of one year with any
16 employer or entity that entered into an agreement with
17 the authority during the time the employee was
18 employed by the authority.

19 (j) The Bagley-Keene Open Meeting Act (Article 9
20 (commencing with Section 11120) of Chapter 1 of Part 1
21 of Division 3 of Title 2 of the Government Code) applies
22 to meetings of the board and the panel.

23 SEC. 82. Section 10603 of the Insurance Code is
24 amended to read:

25 10603. (a) On or before April 1, 1975, the
26 commissioner shall promulgate a standard supplemental
27 disclosure form for all disability insurance policies. Upon
28 the appropriate disclosure form as prescribed by the
29 commissioner, each insurer shall provide, in easily
30 understood language and in a uniform, clearly organized
31 manner, as prescribed and required by the commissioner,
32 such summary information about each ~~such~~ *disability*
33 *insurance* policy offered by ~~such~~ *the* insurer as the
34 commissioner finds is necessary to provide for full and fair
35 disclosure of the provisions of ~~their policies~~ *the policy*.

36 (b) Nothing ~~contained~~ in this section shall preclude
37 the disclosure form from being included with the
38 evidence of coverage or certificate of coverage or policy.

39 SEC. 83. Section 10604 of the Insurance Code is
40 amended to read:



1 10604. The disclosure form shall include the following
2 information, in concise and specific terms, relative to the
3 disability insurance policy:

4 (a) The applicable category or categories of coverage
5 provided by the policy, from among the following:

6 (1) Basic hospital expense coverage.

7 (2) Basic medical-surgical expense coverage.

8 (3) Hospital confinement indemnity coverage.

9 (4) Major medical expense coverage.

10 (5) Disability income protection coverage.

11 (6) Accident only coverage.

12 (7) Specified disease or specified accident coverage.

13 (8) ~~Such~~ Any other categories as the commissioner
14 may prescribe.

15 (b) The principal benefits and coverage of the
16 disability insurance policy.

17 (c) The exceptions, reductions, and limitations that
18 apply to ~~such~~ the policy.

19 (d) A summary, including a citation of the relevant
20 contractual provisions, of the process used to authorize or
21 deny payments for services under the coverage provided
22 by the policy. This subdivision ~~shall~~ *applies* only ~~apply~~ to
23 policies of disability insurance that cover hospital,
24 medical, or surgical expenses.

25 (e) The full premium cost of ~~such~~ the policy.

26 (f) Any copayment, coinsurance, or deductible
27 requirements that may be incurred by the insured or his
28 *or her* family in obtaining coverage under the policy.

29 (g) The terms under which the policy may be
30 renewed by the insured, including any reservation by the
31 insurer of any right to change premiums.

32 (h) A statement that the disclosure form is a summary
33 only, and that the policy itself should be consulted to
34 determine governing contractual provisions.

35 SEC. 84. Section 12376 of the Insurance Code is
36 amended to read:

37 12376. (a) If an underwritten title company is placed
38 into bankruptcy, receivership, or conservatorship by the
39 commissioner and there is a shortage in a subescrow or an
40 escrow account, as defined in subdivision (f) of Section



1 12413.1, each title insurer operating under an
2 underwriting agreement with the underwritten title
3 company at the time of conservatorship, bankruptcy, or
4 receivership, shall be liable for any shortage that may
5 exist in an escrow ~~account~~ or subescrow *account*.

6 (b) If, during the six months prior to establishment of
7 a conservatorship, bankruptcy, or receivership under
8 subdivision (a), the underwritten title company was
9 authorized by underwriting agreements to issue title
10 policies for more than one title insurer, the liability of
11 each title insurer is determined by multiplying the
12 amount of the total shortage, as set forth in subdivision
13 (a), by the percentage of the underwritten title
14 company's business attributable to each title insurer
15 during the 12-month period preceding the establishment
16 of the conservatorship, bankruptcy, or receivership.
17 These calculations shall result in 100 percent of the
18 shortage being proportionately allotted to each title
19 insurer authorized to issue title policies in the last six
20 months preceding the underwritten title company being
21 placed into bankruptcy, receivership, or conservatorship.

22 (c) Once the department, conservator, liquidator,
23 receiver, or bankruptcy trustee determines the shortage
24 in the escrow and subescrow accounts pursuant to this
25 section, the title insurer having liability under this section
26 shall deposit its proportionate share directly into an
27 account established solely for the reimbursement to
28 escrow accountholders within 90 days of written
29 notification by the department, conservator, liquidator,
30 receiver, or bankruptcy trustee. Pursuant to subdivision
31 (a) of Section 12377, this contribution shall not be
32 considered as part of the estate.

33 (d) Nothing in this section relieves a person of liability
34 under any other provision of law that he or she may have
35 for a shortage as set forth in subdivision (a). A title
36 insurer, on becoming liable for a shortage as set forth in
37 this section, is entitled to enforce every available remedy,
38 or bring any cause of action that would have been
39 available to a person compensated by the title insurer.



1 (e) A title insurer who compensates an escrow
2 accountholder for shortages pursuant to this section shall
3 be entitled to make claims for reimbursement,
4 proportionate to its contribution pursuant to subdivision
5 (b), from the estate in conservatorship, liquidation,
6 bankruptcy, or receivership as a preferred claimant
7 under paragraph (4) of subdivision (a) of Section 1033.

8 SEC. 85. Section 626.10 of the Penal Code is amended
9 to read:

10 626.10. (a) Any person, except a duly appointed
11 peace officer as defined in Chapter 4.5 (commencing
12 with Section 830) of Title 3 of Part 2, a full-time paid peace
13 officer of another state or the federal government who is
14 carrying out official duties while in this state, a person
15 summoned by any officer to assist in making arrests or
16 preserving the peace while the person is actually engaged
17 in assisting any officer, or a member of the military forces
18 of this state or the United States who is engaged in the
19 performance of his or her duties, who brings or possesses
20 any dirk, dagger, ice pick, knife having a blade longer
21 than 2¹/₂ inches, folding knife with a blade that locks into
22 place, a razor with an unguarded blade, a taser, or a stun
23 gun, as defined in subdivision (a) of Section 244.5, any
24 instrument that expels a metallic projectile such as a BB
25 or a pellet, through the force of air pressure, CO₂
26 pressure, or spring action, or any spot marker gun, upon
27 the grounds of, or within, any public or private school
28 providing instruction in kindergarten or any of grades 1
29 to 12, inclusive, is guilty of a public offense, punishable by
30 imprisonment in a county jail not exceeding one year, or
31 by imprisonment in the state prison.

32 (b) Any person, except a duly appointed peace officer
33 as defined in Chapter 4.5 (commencing with Section 830)
34 of Title 3 of Part 2, a full-time paid peace officer of another
35 state or the federal government who is carrying out
36 official duties while in this state, a person summoned by
37 any officer to assist in making arrests or preserving the
38 peace while the person is actually engaged in assisting any
39 officer, or a member of the military forces of this state or
40 the United States who is engaged in the performance of



1 his or her duties, who brings or possesses any dirk, dagger,
2 ice pick, or knife having a fixed blade longer than 2¹/₂
3 inches upon the grounds of, or within, any private
4 university, the University of California, the California
5 State University, or the California Community Colleges
6 is guilty of a public offense, punishable by imprisonment
7 in a county jail not exceeding one year, or by
8 imprisonment in the state prison.

9 (c) Subdivisions (a) and (b) ~~shall~~ *do* not apply to any
10 person who brings or possesses a knife having a blade
11 longer than 2¹/₂ inches or a razor with an unguarded
12 blade upon the grounds of, or within, a public or private
13 school providing instruction in kindergarten or any of
14 grades 1 to 12, inclusive, or any private university, state
15 university, or community college at the direction of a
16 faculty member of the private university, state university,
17 or community college, or a certificated or classified
18 employee of the school for use in a private university,
19 state university, community college, or school-sponsored
20 activity or class.

21 (d) Subdivisions (a) and (b) do not apply to any
22 person who brings or possesses an ice pick, a knife having
23 a blade longer than 2¹/₂ inches, or a razor with an
24 unguarded blade upon the grounds of, or within, a public
25 or private school providing instruction in kindergarten or
26 any of grades 1 to 12, inclusive, or any private university,
27 state university, or community college for a lawful
28 purpose within the scope of the person's employment.

29 (e) Subdivision (b) ~~shall~~ *does* not apply to any person
30 who brings or possesses an ice pick or a knife having a
31 fixed blade longer than 2¹/₂ inches upon the grounds of,
32 or within, any private university, state university, or
33 community college for lawful use in or around a residence
34 or residential facility located upon those grounds or for
35 lawful use in food preparation or consumption.

36 (f) Subdivision (a) ~~shall~~ *does* not apply to any person
37 who brings an instrument that expels a metallic projectile
38 such as a BB or a pellet, through the force of air pressure,
39 CO₂ pressure, or spring action, or any spot marker gun
40 upon the grounds of, or within, a public or private school



1 providing instruction in kindergarten or any of grades 1
2 to 12, inclusive, if the person has the written permission
3 of the school ~~principal~~ *principal* or his or her designee.

4 (g) Any certificated or classified employee or school
5 peace officer of a public or private school providing
6 instruction in kindergarten or any of grades 1 to 12,
7 inclusive, may seize any of the weapons described in
8 subdivision (a), and any certificated or classified
9 employee or school peace officer of any private
10 university, state university, or community college may
11 seize any of the weapons described in subdivision (b),
12 from the possession of any person upon the grounds of, or
13 within, the school if he or she knows, or has reasonable
14 cause to know, the person is prohibited from bringing or
15 possessing the weapon upon the grounds of, or within, the
16 school.

17 (h) As used in this section, “dirk” or “dagger” means
18 a knife or other instrument with or without a handguard
19 that is capable of ready use as a stabbing weapon that may
20 inflict great bodily injury or death.

21 SEC. 86. Section 11113 of the Penal Code is amended
22 and renumbered to read:

23 ~~11113.~~

24 *11109.* Each coroner *promptly* shall furnish the
25 Department of Justice ~~—promptly~~ with copies of
26 fingerprints on standardized eight-inch by eight-inch
27 cards, and descriptions and other identifying data,
28 including date and place of death, of all deceased persons
29 whose deaths are in classifications requiring inquiry by
30 the coroner where the coroner is not satisfied with the
31 decedent’s identification. When it is not physically
32 possible to furnish prints of the 10 fingers, prints or partial
33 prints of any fingers, with other identifying data, shall be
34 forwarded by the coroner to the department.

35 In all cases where there is a criminal record on file in
36 the department for the decedent, the department shall
37 notify the Federal Bureau of Investigation, and each
38 California sheriff and chief of police, in whose jurisdiction
39 the decedent has been arrested, of the date and place of
40 death of the decedent.



1 SEC. 87. Section 4551.3 of the Public Resources Code
 2 is amended to read:

3 4551.3. (a) A sustained yield plan that is prepared
 4 and approved in accordance with rules and regulations
 5 adopted by the board pursuant to Section 4551, including
 6 Article 6.75 (commencing with Section 1091.1) of
 7 Subchapter 7 of Chapter 4 of Division 1.5 of Title 14 of the
 8 California Code of Regulations, shall be effective for a
 9 period of no more than 10 years.

10 (b) As part of the continuing monitoring process for an
 11 approved sustained yield plan, as described in subdivision
 12 (a), the department shall hold a public hearing on the
 13 plan if requested by an interested party who submits, in
 14 writing, a request based on substantial evidence of
 15 potential noncompliance with any of the following:

16 (1) The terms and conditions of the original sustained
 17 yield plan approval.

18 (2) The applicable provisions of the rules or
 19 regulations adopted by the board that were in effect on
 20 the date the sustained yield plan was originally approved.

21 (3) Other requirements that have been imposed on
 22 the sustained yield plan by operation of law.

23 ~~Such~~

24 (c) *The* request shall identify specific issues in the plan
 25 to be addressed at the public hearing. To be considered,
 26 a request ~~must~~ *shall* be made to the department within six
 27 months after the midpoint of the effective term of a
 28 sustained yield plan described in subdivision (a). The
 29 department shall hold the public hearing ~~with~~ *within* 120
 30 days ~~from~~ *after* the date of the close of the six-month
 31 request period. A sustained yield plan shall be effective
 32 for the remainder of its term unless the director makes
 33 written findings, based on a preponderance of evidence,
 34 that implementation of the sustained yield plan is not in
 35 compliance with any material provision of ~~subparagraph~~
 36 *paragraph* (1), (2), or (3) of subdivision (b) ~~above~~.

37 ~~(e)~~

38 (d) If a public hearing is required, the director shall
 39 provide at least 30 days' notice to the plan submitter and



1 the public and shall provide for a record of the hearing,
2 pursuant to regulations adopted by the board.

3 SEC. 88. Section 21083.8 of the Public Resources
4 Code, as added by Section 2 of Chapter 842 of the Statutes
5 of 1994, is repealed.

6 ~~21083.8. (a) For the purposes of this section, the~~
7 ~~following terms have the following meaning:~~

8 ~~(1) "Reuse plan" means an initial plan for the reuse of~~
9 ~~a military base adopted by a local government or a~~
10 ~~redevelopment agency in the form of a general plan,~~
11 ~~general plan amendment, specific plan, redevelopment~~
12 ~~plan, or other planning document.~~

13 ~~(2) "Base" means any military base either closed by, or~~
14 ~~scheduled for closure by, the federal government.~~

15 ~~(b) If an environmental impact statement on the~~
16 ~~closure and reuse of a military base has been prepared~~
17 ~~and filed pursuant to the National Environmental Policy~~
18 ~~Act of 1969 (42 U.S.C. Sec. 4321 et seq.), the lead agency~~
19 ~~that is responsible for the preparation of an~~
20 ~~environmental impact report for a reuse plan for the~~
21 ~~same base may proceed in the following manner:~~

22 ~~(1) A notice of the preparation of an environmental~~
23 ~~impact report on a reuse plan shall be prepared pursuant~~
24 ~~to either Section 21080.4 or 21080.6 and shall include a~~
25 ~~description of the reuse plan and a copy of the~~
26 ~~environmental impact statement. The notice shall~~
27 ~~indicate that the lead agency intends to utilize the~~
28 ~~environmental impact statement as a draft~~
29 ~~environmental impact report and that the lead agency~~
30 ~~requests comments on whether, and to what extent, the~~
31 ~~environmental impact statement provides adequate~~
32 ~~information to serve as a draft environmental impact~~
33 ~~report, and what specific additional information, if any, is~~
34 ~~necessary to comply with this division. The notice shall~~
35 ~~also indicate the address to which written comments may~~
36 ~~be sent and the deadline for submitting comments.~~

37 ~~(2) Upon the close of the comment period on the~~
38 ~~notice of preparation, the lead agency may proceed with~~
39 ~~preparation of the environmental impact report on the~~
40 ~~reuse plan. The lead agency shall, to the greatest extent~~



1 ~~feasible, avoid duplication and utilize information in the~~
2 ~~environmental impact statement consistent with this~~
3 ~~division. The draft environmental impact report shall~~
4 ~~consist of all or part of the environmental impact~~
5 ~~statement and any additional information that is~~
6 ~~necessary to prepare a draft environmental impact~~
7 ~~report in compliance with this division.~~

8 (3) ~~In all other respects, the environmental impact~~
9 ~~report for the reuse plan shall be completed in~~
10 ~~compliance with this division.~~

11 (e) ~~This section shall remain in effect only until~~
12 ~~January 1, 2001, and as of that date is repealed, unless a~~
13 ~~later enacted statute, which is enacted before January 1,~~
14 ~~2001, deletes or extends that date.~~

15 SEC. 89. Section 30514 of the Public Resources Code
16 is amended to read:

17 30514. (a) A certified local coastal program and all
18 local implementing ordinances, regulations, and other
19 actions may be amended by the appropriate local
20 government, but no such amendment shall take effect
21 until it has been certified by the commission.

22 (b) Any proposed amendments to a certified local
23 coastal program shall be submitted to, and processed by,
24 the commission in accordance with the applicable
25 procedures and time limits specified in Sections 30512 and
26 30513, except that the commission shall make no
27 determination as to whether a proposed amendment
28 raises a substantial issue as to conformity with the policies
29 of Chapter 3 (commencing with Section 30200) as would
30 otherwise be required by Section 30512. In no event shall
31 there be more than three of these submittals of proposed
32 amendments in any calendar year. However, there are no
33 limitations on the number of amendments included in
34 each of the three submittals.

35 (c) The commission ~~shall~~, by regulation, *shall* establish
36 a procedure whereby proposed amendments to a
37 certified local coastal program may be reviewed and
38 designated by the executive director of the commission
39 as being minor in nature or as requiring rapid and
40 expeditious action. That procedure shall include



1 provisions authorizing local governments to propose
2 amendments to the executive director for that review
3 and designation. Proposed amendments that are
4 designated as being minor in nature or as requiring rapid
5 and expeditious action shall not be subject to subdivision
6 (b) or Sections 30512 and 30513 and shall take effect on
7 the 10th working day after designation. Amendments
8 that allow changes in uses shall not be so designated.

9 (d) (1) The executive director may determine that a
10 proposed local coastal program amendment is de minimis
11 if the executive director determines that a proposed
12 amendment would have no impact, either individually or
13 cumulatively, on coastal resources, is consistent with the
14 policies of Chapter 3 (commencing with Section 30200),
15 and meets the following criteria:

16 (A) The local government, at least 21 days prior to the
17 date of submitting the proposed amendment to the
18 executive director, has provided public notice, and
19 provided a copy to the commission, ~~which~~ *that* specifies
20 the dates and places where comments will be accepted on
21 the proposed amendment, contains a brief description of
22 the proposed amendment, and states the address where
23 copies of the proposed amendment are available for
24 public review, by one of the following procedures:

25 (i) Publication, not fewer times than required by
26 Section 6061 of the Government Code, in a newspaper of
27 general circulation in the area affected by the proposed
28 amendment. If more than one area will be affected, the
29 notice shall be published in the newspaper of largest
30 circulation from among the newspapers of general
31 circulation in those areas.

32 (ii) Posting of the notice by the local government both
33 onsite and offsite in the area affected by the proposed
34 amendment.

35 (iii) Direct mailing to the owners and occupants of
36 contiguous property shown on the latest equalized
37 assessment roll.

38 (B) The proposed amendment does not propose any
39 change in land use or water uses or any change in the
40 allowable use of property.



1 (2) At the time that the local government submits the
2 proposed amendment to the executive director, the local
3 government shall also submit to the executive director
4 any public comments that were received during the
5 comment period provided pursuant to subparagraph (A)
6 of paragraph (1).

7 (3) (A) The executive director shall make a
8 determination as to whether the proposed amendment is
9 de minimis within 10 working days of the date of
10 submittal by the local government. If the proposed
11 amendment is determined to be de minimis, the
12 proposed amendment shall be noticed in the agenda of
13 the next regularly scheduled meeting of the commission,
14 in accordance with Section 11125 of the Government
15 Code, and any public comments forwarded by the local
16 government shall be made available to the members of
17 the commission.

18 (B) If three members of the commission object to the
19 executive director's determination that the proposed
20 amendment is de minimis, the proposed amendment
21 shall be set for public hearing in accordance with the
22 procedures specified in subdivision (b), or as specified in
23 subdivision (c) if applicable, as determined by the
24 executive director, or, at the request of the local
25 government, returned to the local government. If set for
26 public hearing under subdivision (b), the time
27 requirements set by Sections 30512 and 30513 shall
28 commence from the date on which the objection to the
29 de minimis designation was made.

30 (C) If three ~~of~~ *or* more members of the commission do
31 not object to the de minimis determination, the de
32 minimis local coastal program amendment shall become
33 part of the certified local coastal program 10 days after the
34 date of the commission meeting.

35 (4) The commission ~~may~~, after a noticed public
36 hearing, *may* adopt guidelines to implement this
37 subdivision, which shall be exempt from review by the
38 Office of Administrative Law and from Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3
40 of Title 2 of the Government Code. The commission shall



1 file any guidelines adopted pursuant to this paragraph
2 with the Office of Administrative Law.

3 (e) For purposes of this section, “amendment of a
4 certified local coastal program” includes, but is not
5 limited to, any action by a local government that
6 authorizes the use of a parcel of land other than a use that
7 is designated in the certified local coastal program as a
8 permitted use of the parcel.

9 SEC. 90. Section 739.3 of the Public Utilities Code, as
10 added by Chapter 767 of the Statutes of 1994, is amended
11 and renumbered to read:

12 ~~739.3.~~

13 739.4. (a) Nothing in Section 739 shall prohibit the
14 development of experimental electrical residential rate
15 schedules where the energy component of the rate
16 charged to the customers paying the experimental rate
17 decreases as consumption increases, if the utility
18 demonstrates and the commission finds that the
19 consumption pattern of those participating customers
20 causes the energy costs of the utility to decrease as
21 consumption increases. Revenues ~~foregone~~ *forgone* from
22 participating customers as a result of the experimental
23 rate schedule shall not be recovered from other
24 customers.

25 (b) This section is ~~applicable~~ *applies* only within
26 extreme climatic zones 15 and 16, as defined by the State
27 Energy Resources Conservation and Development
28 Commission, ~~and~~ that are located within the service
29 territory of the Southern California Edison Company,
30 and only for residential customers who purchase and
31 install high-efficiency heating or cooling equipment for
32 whom the Southern California Edison Company
33 demonstrates and the commission finds that the
34 consumption pattern of those participating customers
35 causes the energy costs of the utility to decrease as
36 consumption increases.

37 (c) Nothing in this section shall cause any changes to
38 the baseline quantities or rates established for these
39 climatic zones.



1 (d) This section shall remain in effect only until
2 January 1, 1999, and as of that date is repealed, unless a
3 later enacted statute, which is enacted before January 1,
4 1999, deletes or extends that date.

5 SEC. 91. Section 2889.5 of the Public Utilities Code is
6 amended to read:

7 2889.5. (a) No telephone corporation, or any person,
8 firm, or corporation representing a telephone
9 corporation, shall make any change or authorize a
10 different telephone corporation to make any change in
11 the provider of any telephone service for which
12 competition has been authorized of a telephone
13 subscriber until all of the following steps have been
14 completed:

15 (1) If a subscriber is solicited by telephone or by some
16 other method, other than by contact in person, by a
17 telephone corporation or its independent representative,
18 other than an employee of the telephone corporation, the
19 corporation or its representative shall do all of the
20 following:

21 (A) Thoroughly inform the subscriber of the nature
22 and extent of the service being offered.

23 (B) Specifically establish whether the subscriber
24 intends to make any change in his or her telephone
25 corporation and explain any charges associated with that
26 change, and verify the subscriber's decision through one
27 of the following means:

28 (i) Where a representative is acting on behalf of the
29 corporation, a followup call by the telephone corporation,
30 or a representative of the telephone corporation who
31 does not receive a commission for that sale, shall be made
32 to verify the subscriber's intent to change his or her
33 telephone corporation.

34 (ii) Mail to the subscriber an information package
35 seeking confirmation of his or her change in the
36 telephone corporation and describing the new service,
37 including a postage prepaid postcard that the customer
38 can use to deny, cancel, or confirm a service order, as soon
39 as possible, ~~and~~ wait 14 days after the information
40 package is mailed before making the change in the



1 telephone corporation, and make the change only if the
2 subscriber does not cancel the change.

3 (iii) Verify the subscriber's change in his or her
4 telephone corporation by obtaining the subscriber's
5 signature on a document fully explaining the nature and
6 extent of the action. The document shall be a separate
7 document whose sole purpose is to explain the nature and
8 extent of the action.

9 (iv) Obtain the subscriber's authorization through an
10 electronic means that takes the information, including
11 the calling number, and confirms the change to which the
12 subscriber has given his or her consent.

13 ~~(e)~~

14 (C) Retain a record of the verification of the sale for
15 at least one year. These records shall be made available
16 to the subscriber or the commission upon request.

17 (2) If the subscriber seeks to make a change in his or
18 her telephone corporation in person, the telephone
19 corporation or its representative shall do all of the
20 following:

21 (A) Thoroughly inform the subscriber of the nature
22 and extent of the service being offered.

23 (B) Specifically establish whether the subscriber
24 intends to make any change in his or her telephone
25 corporation, and explain any charges associated with that
26 change.

27 (C) Obtain the subscriber's signature on a document
28 that fully explains the nature and extent of the action. The
29 subscriber, by his or her signature on the document, shall
30 indicate a full understanding of the relationship being
31 established with the telephone corporation.

32 (D) Furnish the subscriber with a copy of the signed
33 document.

34 ~~(e)~~

35 (b) When a written customer solicitation or other
36 document contains a letter of agency authorizing a
37 change in service provider in combination with other
38 information including, but not limited to, inducements to
39 subscribers to purchase service, the solicitation shall



1 include a separate document whose sole purpose is to
2 explain the nature and extent of the action.

3 ~~(d)~~

4 (c) If any part of a mailing to a prospective customer
5 is in language other than English, any written
6 authorization contained in the mailing shall be sent to the
7 same prospective customer in the same language.

8 ~~(e)~~

9 (d) If a residential subscriber or a business that has not
10 signed an authorization notifies the telephone
11 corporation within 90 days that he or she does not wish to
12 change telephone corporations, the subscriber shall be
13 switched back to his or her former telephone corporation
14 at the expense of the telephone corporation that initiated
15 the change.

16 ~~(f)~~

17 (e) For purposes of this section, competitive services
18 are those services where customers have the ability to
19 presubscribe to a provider.

20 SEC. 92. Section 5387.5 of the Public Utilities Code, as
21 added by Chapter 109 of the Statutes of 1994, is amended
22 and renumbered to read:

23 ~~5387.5.~~

24 5390. The commission shall fund the costs of
25 administering the special identification license plate
26 program required by Section 5385.6 of this code and
27 Section 5011.5 of the Vehicle Code, including the costs of
28 the Department of Motor Vehicles, from the Public
29 Utilities Commission Transportation Reimbursement
30 Account.

31 The commission shall maintain a prudent level of fund
32 balance in the account in any future year. The
33 commission shall consider recovering the costs of this
34 program from the limousine operators when the fund
35 balance is drawn below a prudent level of reserve.

36 SEC. 93. Section 75.60 of the Revenue and Taxation
37 Code is amended to read:

38 75.60. (a) Notwithstanding any other provision of
39 law, the board of supervisors of an eligible county, upon
40 the adoption of a method identifying the actual



1 administrative costs associated with the supplemental
2 assessment roll, may direct the county auditor to allocate
3 to the county, prior to the allocation of property tax
4 revenues pursuant to Chapter 6 (commencing with
5 Section 95) and prior to the allocation made pursuant to
6 Section 75.70, an amount equal to the actual
7 administrative costs, but not to exceed 5 percent of the
8 revenues ~~which~~ *that* have been collected on or after
9 January 1, 1987, due to the assessments under this chapter.
10 Those revenues shall be used solely for the purpose of
11 administration of this chapter, regardless of the date those
12 costs are incurred.

13 (b) For purposes of this section:

14 (1) "Actual administrative costs" includes only those
15 direct costs for administration, data processing,
16 collection, and appeal ~~which~~ *that* are incurred by county
17 auditors, assessors, and tax collectors. "Actual
18 administrative costs" also includes those indirect costs for
19 administration, data processing, collections, and appeal
20 ~~which~~ *that* are incurred by county auditors, assessors, and
21 tax collectors and are allowed by state and federal audit
22 standards pursuant to the A-87 Cost Allocation Program.

23 (2) The State Board of Equalization shall certify a
24 county as an eligible county only if both of the following
25 *conditions* are determined to exist:

26 (A) The average assessment level in the county is at
27 least 95 percent of the assessment level required by
28 statute, as determined by the board's most recent survey
29 of that county performed pursuant to Section 15640 of the
30 Government Code.

31 (B) The sum of the absolute values of the differences
32 from the statutorily required assessment level described
33 in subparagraph (A) does not exceed 7.5 percent of the
34 total amount of the county's statutorily required assessed
35 value, as determined pursuant to the board's survey
36 described in subparagraph (A).

37 SEC. 94. Section 214 of the Revenue and Taxation
38 Code is amended to read:

39 214. (a) Property used exclusively for religious,
40 hospital, scientific, or charitable purposes owned and



1 operated by community chests, funds, foundations or
2 corporations organized and operated for religious,
3 hospital, scientific, or charitable purposes is exempt from
4 taxation, including ad valorem taxes to pay the interest
5 and redemption charges on any indebtedness approved
6 by the voters prior to July 1, 1978, or any bonded
7 indebtedness for the acquisition or improvement of real
8 property approved on or after July 1, 1978, by two-thirds
9 of the votes cast by the voters voting on the proposition,
10 if:

11 (1) The owner is not organized or operated for profit.
12 However, in the case of hospitals, the organization shall
13 not be deemed to be organized or operated for profit, if,
14 during the immediately preceding fiscal year ~~the excess~~
15 ~~of,~~ operating revenues, exclusive of gifts, endowments
16 and grants-in-aid, ~~over~~ *did not exceed* operating expenses
17 ~~has not exceeded a sum~~ *by an amount* equivalent to 10
18 percent of those operating expenses. As used herein,
19 operating expenses ~~shall~~ include depreciation based on
20 cost of replacement and amortization of, and interest on,
21 indebtedness.

22 (2) No part of the net earnings of the owner inures to
23 the benefit of any private shareholder or individual.

24 (3) The property is used for the actual operation of the
25 exempt activity, and does not exceed an amount of
26 property reasonably necessary to the accomplishment of
27 the exempt purpose.

28 (A) For the purposes of determining whether the
29 property is used for the actual operation of the exempt
30 activity, consideration shall not be given to use of the
31 property for either or both of the following described
32 activities if that use is occasional:

33 (i) The owner conducts fundraising activities on the
34 property and the proceeds derived from those activities
35 are not unrelated business taxable income, as defined in
36 Section 512 of the Internal Revenue Code ~~of 1986~~, of the
37 owner and are used to further the exempt activity of the
38 owner.

39 (ii) The owner permits any other organization ~~which~~
40 *that* meets all of the requirements of this subdivision,



1 other than ownership of the property, to conduct
2 fundraising activities on the property and the proceeds
3 derived from those activities are not unrelated business
4 taxable income, as defined in Section 512 of the Internal
5 Revenue Code ~~of 1986~~, of the organization, are not subject
6 to the tax on unrelated business taxable income ~~which~~
7 *that* is imposed by Section 511 of the Internal Revenue
8 Code ~~of 1986~~, and are used to further the exempt activity
9 of the organization.

10 (B) For purposes of subparagraph (A):

11 (i) “Occasional use” means use of the property on an
12 irregular or intermittent basis by the qualifying owner or
13 any other qualifying organization described in clause (ii)
14 of subparagraph (A) ~~which~~ *that* is incidental to the
15 primary activities of the owner or the other organization.

16 (ii) “Fundraising activities” means both activities
17 involving the direct solicitation of money or other
18 property and the anticipated exchange of goods or
19 services for money between the soliciting organization
20 and the organization or person solicited.

21 (C) Subparagraph (A) shall have no application in
22 determining whether paragraph (3) has been satisfied
23 unless the owner of the property and any other
24 organization using the property as provided in
25 subparagraph (A) have filed with the assessor duplicate
26 copies of valid unrevoked letters or rulings from the
27 Internal Revenue Service ~~which~~ *that* state that the owner
28 and the other organization qualify as exempt
29 organizations under Section 501(c)(3) of the Internal
30 Revenue Code. The owner of the property and any other
31 organization using the property as provided in
32 subparagraph (A) *also* shall ~~also~~ file duplicate copies of
33 their most recently filed federal income tax returns.

34 (D) For the purposes of determining whether the
35 property is used for the actual operation of the exempt
36 activity, consideration shall not be given to the use of the
37 property for meetings conducted by any other
38 organization if the meetings are incidental to the other
39 organization’s primary activities, are not fundraising
40 meetings or activities as defined in subparagraph (B), are



1 held no more than once per week, and the other
2 organization and its use of the property meet all other
3 requirements of paragraphs (1) to (5), inclusive, of
4 subdivision (a). The owner or the other organization also
5 shall file with the assessor duplicate copies of valid,
6 unrevoked letters or rulings from the Internal Revenue
7 Service or the Franchise Tax Board stating that the other
8 organization, or the national organization of which it is a
9 local chapter or affiliate, qualifies as an exempt
10 organization under Section 501(c)(3) or Section
11 501(c)(4) of the Internal Revenue Code or Section
12 23701d, 23701f, or 23701w ~~of this code~~, together with
13 duplicate copies of that organization's most recently filed
14 federal income tax return, if the organization is required
15 by federal law to file a return.

16 Nothing in subparagraph (A), (B), (C), or (D) shall be
17 construed to either enlarge or restrict the exemption
18 provided for in subdivision (b) of Section 4 and Section
19 5 of Article XIII of the California Constitution and this
20 section.

21 (4) The property is not used or operated by the owner
22 or by any other person so as to benefit any officer, trustee,
23 director, shareholder, member, employee, contributor,
24 or bondholder of the owner or operator, or any other
25 person, through the distribution of profits, payment of
26 excessive charges or compensations, or the more
27 advantageous pursuit of their business or profession.

28 (5) The property is not used by the owner or members
29 thereof for fraternal or lodge purposes, or for social club
30 purposes except where that use is clearly incidental to a
31 primary religious, hospital, scientific, or charitable
32 purpose.

33 (6) The property is irrevocably dedicated to religious,
34 charitable, scientific, or hospital purposes and upon the
35 liquidation, dissolution or abandonment of the owner will
36 not inure to the benefit of any private person except a
37 fund, foundation, or corporation organized and operated
38 for religious, hospital, scientific, or charitable purposes.

39 (7) The property, if used exclusively for scientific
40 purposes, is used by a foundation or institution ~~which~~ that,



1 in addition to complying with the foregoing
2 requirements for the exemption of charitable
3 organizations in general, has been chartered by the
4 Congress of the United States (except that this
5 requirement shall not apply when the scientific purposes
6 are medical research), and whose objects are the
7 encouragement or conduct of scientific investigation,
8 research, and discovery for the benefit of the community
9 at large.

10 The exemption provided for herein shall be known as
11 the “welfare exemption.” This exemption shall be in
12 addition to any other exemption now provided by law,
13 and the existence of the exemption provision in
14 paragraph (2) of subdivision (a) of Section 202 shall not
15 preclude the exemption under this section for museum or
16 library property. Except as provided in subdivision (e),
17 this section shall not be construed to enlarge the college
18 exemption.

19 (b) Property used exclusively for school purposes of
20 less than collegiate grade and owned and operated by
21 religious, hospital, or charitable funds, foundations, or
22 corporations, which property and funds, foundations, or
23 corporations meet all of the requirements of subdivision
24 (a), shall be deemed to be within the exemption provided
25 for in subdivision (b) of Section 4 and Section 5 of Article
26 XIII of the California Constitution and this section.

27 (c) Property used exclusively for nursery school
28 purposes and owned and operated by religious, hospital,
29 or charitable funds, foundations, or corporations, which
30 property and funds, foundations, or corporations meet all
31 the requirements of subdivision (a), shall be deemed to
32 be within the exemption provided for in subdivision (b)
33 of Section 4 and Section 5 of Article XIII of the California
34 Constitution and this section.

35 (d) Property used exclusively for a noncommercial
36 educational FM broadcast station or an educational
37 television station, and owned and operated by religious,
38 hospital, scientific, or charitable funds, foundations, or
39 corporations meeting all of the requirements of
40 subdivision (a), shall be deemed to be within the



1 exemption provided for in subdivision (b) of Section 4
2 and Section 5 of Article XIII of the California Constitution
3 and this section.

4 (e) Property used exclusively for religious, charitable,
5 scientific, or hospital purposes and owned and operated
6 by religious, hospital, scientific, or charitable funds,
7 foundations, or corporations or educational institutions of
8 collegiate grade, as defined in Section 203, which
9 property and funds, foundations, corporations, or
10 educational institutions meet all of the requirements of
11 subdivision (a), shall be deemed to be within the
12 exemption provided for in subdivision (b) of Section 4
13 and Section 5 of Article XIII of the California Constitution
14 and this section. As to educational institutions of
15 collegiate grade, as defined in Section 203, the
16 requirements of paragraph (6) of subdivision (a) shall be
17 deemed to be met if both of the following are met:

18 (1) The property of the educational institution is
19 irrevocably dedicated in its articles of incorporation to
20 charitable and educational purposes, to religious and
21 educational purposes, or to educational purposes.

22 (2) The articles of incorporation of the educational
23 institution provide for distribution of its property upon its
24 liquidation, dissolution, or abandonment to a fund,
25 foundation, or corporation organized and operated for
26 religious, hospital, scientific, charitable, or educational
27 purposes meeting the requirements for exemption
28 provided by Section 203 or this section.

29 (f) Property used exclusively for housing and related
30 facilities for elderly or handicapped families and financed
31 by, including, but not limited to, the federal government
32 pursuant to Section 202 of Public Law 86-372 (12 U.S.C.
33 Sec. 1701q), as amended, Section 231 of Public Law 73-479
34 (12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448
35 (12 U.S.C. Sec. 1715z), and owned and operated by
36 religious, hospital, scientific, or charitable funds,
37 foundations, or corporations meeting all of the
38 requirements of this section shall be deemed to be within
39 the exemption provided for in subdivision (b) of Section
40 4 and Section 5 of Article XIII of the California



1 Constitution and this section. The amendment of this
2 paragraph made at ~~the 1983-84 Regular Session of the~~
3 ~~Legislature by Chapter 1102 of the Statutes of 1984~~ does
4 not constitute a change in, but is declaratory of, the
5 existing law. However, no refund of property taxes shall
6 be required as a result of this amendment for any fiscal
7 year prior to the fiscal year in which the amendment
8 takes effect.

9 Property used exclusively for housing and related
10 facilities for elderly or handicapped families at which
11 supplemental care or services designed to meet the
12 special needs of elderly or handicapped residents are not
13 provided, or ~~which~~ *that* is not financed by the federal
14 government pursuant to Section 202 of Public Law 86-372
15 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public
16 Law 73-479 (12 U.S.C. Sec. 1715v), or Section 236 of Public
17 Law 90-448 (12 U.S.C. Sec. 1715z), shall not be entitled to
18 exemption pursuant to this subdivision unless the
19 property is used for housing and related facilities for low-
20 and moderate-income elderly or handicapped families.
21 Property ~~which~~ *that* would otherwise be exempt
22 pursuant to this subdivision, except that it includes some
23 housing and related facilities for other than low- or
24 moderate-income elderly or handicapped families, shall
25 be entitled to a partial exemption. The partial exemption
26 shall be equal to that percentage of the value of the
27 property ~~which~~ *that* is equal to the percentage ~~which~~ *that*
28 the number of low- and moderate-income elderly and
29 handicapped families occupying the property *is*
30 *represents* of the total number of families occupying the
31 property.

32 As used in this subdivision, “low and moderate income”
33 has the same meaning as the term “persons and families
34 of low or moderate income” as defined by Section 50093
35 of the Health and Safety Code.

36 (g) (1) Property used exclusively for rental housing
37 and related facilities and owned and operated by
38 religious, hospital, scientific, or charitable funds,
39 foundations, or corporations, including limited
40 partnerships in which the managing general partner is an



1 eligible nonprofit corporation, meeting all of the
2 requirements of this section, or by veterans'
3 organizations, as described in Section 215.1, meeting all
4 the requirements of paragraphs (1) to (7), inclusive, of
5 subdivision (a), shall be deemed to be within the
6 exemption provided for in subdivision (b) of Section 4
7 and Section 5 of Article XIII of the California Constitution
8 and this section and shall be entitled to a partial
9 exemption equal to that percentage of the value of the
10 property ~~which~~ *that* the portion of the property serving
11 lower income households ~~is~~ *represents* of the total
12 property in any year in which any of the following criteria
13 are applicable:

14 (A) Twenty percent or more of the occupants of the
15 property are lower income households whose rent does
16 not exceed that prescribed by Section 50053 of the Health
17 and Safety Code.

18 (B) The acquisition, rehabilitation, development, or
19 operation of the property, or any combination of these
20 factors, is financed with tax-exempt mortgage revenue
21 bonds or general obligation bonds, or is financed by local,
22 state, or federal loans or grants and the rents of the
23 occupants who are lower income households do not
24 exceed those prescribed by deed restrictions or
25 regulatory agreements pursuant to the terms of the
26 financing or financial assistance.

27 (C) The owner of the property is eligible for and
28 receives low-income housing tax credits pursuant to
29 Section 42 of the Internal Revenue Code of 1986, as added
30 by Public Law 99-514.

31 (2) In order to be eligible for the exemption provided
32 by this subdivision, the owner of the property shall do
33 both of the following:

34 (A) Certify and ensure that there is a deed restriction,
35 agreement, or other legal document that restricts the
36 project's usage and that provides that the units
37 designated for use by lower income households are
38 continuously available to or occupied by lower income
39 households at rents that do not exceed those prescribed
40 by Section 50053 of the Health and Safety Code, or, to the



1 extent that the terms of federal, state, or local financing
2 or financial assistance conflicts with Section 50053, rents
3 *that* do not exceed those prescribed by the terms of the
4 financing or financial assistance.

5 (B) Certify that the funds that would have been
6 necessary to pay property taxes are used to maintain the
7 affordability of, or reduce rents otherwise necessary for,
8 the units occupied by lower income households.

9 (3) As used in this subdivision, “lower income
10 households” has the same meaning as the term “lower
11 income households” as defined by Section 50079.5 of the
12 Health and Safety Code.

13 (h) Property used exclusively for an emergency or
14 temporary shelter and related facilities for homeless
15 persons and families and owned and operated by
16 religious, hospital, scientific, or charitable funds,
17 foundations, or corporations meeting all of the
18 requirements of this section shall be deemed to be within
19 the exemption provided for in subdivision (b) of Section
20 4 and Section 5 of Article XIII of the California
21 Constitution and this section. Property ~~which would~~ *that*
22 otherwise *would* be exempt pursuant to this subdivision,
23 except that it includes housing and related facilities for
24 other than an emergency or temporary shelter, shall be
25 entitled to a partial exemption.

26 As used in this subdivision, “emergency or temporary
27 shelter” means a facility ~~which~~ *that* would be eligible for
28 funding pursuant to Chapter 11 (commencing with
29 Section 50800) of Part 2 of Division 31 of the Health and
30 Safety Code.

31 (i) Property used exclusively for housing and related
32 facilities for employees of religious, charitable, scientific,
33 or hospital organizations—~~which~~ *that* meet all the
34 requirements of subdivision (a) and owned and operated
35 by funds, foundations, or corporations ~~which~~ *that* meet all
36 the requirements of subdivision (a) shall be deemed to be
37 within the exemption provided for in subdivision (b) of
38 Sections 4 and 5 of Article XIII of the California
39 Constitution and this section to the extent the residential



1 use of the property is institutionally necessary for the
2 operation of the organization.

3 (j) For purposes of this section, charitable purposes
4 include educational purposes. For purposes of this
5 subdivision, ~~educational purposes~~ “*educational*
6 *purposes*” means those educational purposes and
7 activities for the benefit of the community as a whole or
8 an unascertainable and indefinite portion thereof, and
9 shall not include those educational purposes and activities
10 *that are* primarily for the benefit of an organization’s
11 shareholders. Educational activities ~~shall~~ include the
12 study of relevant information, the dissemination of that
13 information to interested members of the general public,
14 and the participation of interested members of the
15 general public.

16 SEC. 95. Section 2503.2 of the Revenue and Taxation
17 Code is amended to read:

18 2503.2. (a) The tax collector for any city, county, or
19 city and county may, in his or her discretion, accept
20 electronic ~~fund~~ *funds* transfers in payment of any tax or
21 assessment, or on a redemption.

22 (b) The tax collector for any city, county, or city and
23 county may, in his or her discretion, require any taxpayer,
24 or any paying agent of a taxpayer or taxpayers, who makes
25 an aggregate payment of one hundred thousand dollars
26 (\$100,000) or more on the two most recent regular
27 installments on the secured roll or on the one installment
28 of the most recent unsecured tax roll, to make subsequent
29 payments by electronic ~~fund~~ *funds* transfer.

30 (c) Any taxpayer or paying agent making payment by
31 electronic ~~fund~~ *funds* transfer shall provide any
32 supporting documentation and electronic information as
33 requested by the tax collector. An electronic ~~fund~~ *funds*
34 transfer made pursuant to this section shall be made to
35 the bank account designated by the tax collector.

36 (d) Any costs incurred by the tax collector as a result
37 of the acceptance of electronic ~~fund~~ *funds* transfers
38 pursuant to this section shall be considered
39 administrative costs of tax collection, except that if for any
40 reason the electronic ~~fund~~ *funds* transfer is not



1 completed, those costs shall be recovered as provided in
2 subdivision (g).

3 (e) The acceptance of an electronic ~~fund~~ *funds*
4 transfer shall constitute payment of a tax, assessment, or
5 redemption as of the date of acceptance when, but not
6 before, the transfer has been completed. An electronic
7 ~~fund~~ *funds* transfer is completed by acceptance by the
8 bank designated by the tax collector of the payment
9 specified by the originator's payment order.

10 (f) If an electronic ~~fund~~ *funds* transfer is not accepted
11 for any reason, any record of payment entered on any
12 official record indicating the acceptance of that transfer
13 shall be canceled, and the tax or assessment shall be a lien
14 as if no payment has been attempted. When a
15 cancellation of a record of payment is made, the
16 canceling officer shall record the cancellation on the
17 record ~~which~~ *that* contained the notation of payment,
18 and ~~shall~~ *shall* immediately *shall* cause a written notice of
19 cancellation to be sent to the person attempting the
20 electronic ~~fund~~ *funds* transfer.

21 (g) Upon notice of nonacceptance of an electronic
22 ~~fund~~ *funds* transfer, the tax collector may charge the
23 person who attempted the electronic ~~fund~~ *funds* transfer
24 a fee not to exceed the costs of processing the transfer,
25 providing notice of nonacceptance to that person, and
26 making required cancellations on the tax roll. The
27 amount of any fee charged pursuant to this subdivision
28 shall be set by the governing body of the relevant city,
29 county, or city and county, and may be added to the tax
30 bill and collected in the same manner as costs recovered
31 pursuant to Section 2621.

32 SEC. 96. Section 2611.6 of the Revenue and Taxation
33 Code is amended to read:

34 2611.6. The following information shall be included in
35 each county tax bill or in a separate statement
36 accompanying the bill:

37 (a) The full value of locally assessed property,
38 including assessments made for irrigation district
39 purposes in accordance with Section 26625.1 of the Water
40 Code.



1 (b) The tax rate required by Article XIII A of the
2 California Constitution.

3 (c) The rate or dollar amount of taxes levied in excess
4 of the 1-percent limitation to pay for voter-approved
5 indebtedness incurred before July 1, 1978, or bonded
6 indebtedness for the acquisition or improvement of real
7 property approved by two-thirds of the voters on or after
8 June 4, 1986.

9 (d) The amount of any special taxes and special
10 assessments levied.

11 (e) The amount of any tax rate reduction pursuant to
12 Section 100 ~~of this code~~, with the notation: “Tax reduction
13 by (name of jurisdiction).”

14 (f) The amount of any exemptions. Exemptions
15 reimbursable by the state shall be *shown* separately
16 ~~shown~~.

17 (g) The total taxes due on the property covered by the
18 bill.

19 (h) Instructions on tendering payment, including the
20 name and mailing address of the tax collector.

21 (i) Information specifying all of the following:

22 (1) That if the taxpayer disagrees with the assessed
23 value as shown on the tax bill, the taxpayer has the right
24 to an informal assessment review by contacting the
25 assessor’s office.

26 (2) That if the taxpayer and the assessor are unable to
27 agree on a proper assessed value pursuant to an informal
28 assessment review, the taxpayer has the right to file an
29 application for reduction in assessment for the following
30 year with the county board of equalization or the
31 assessment appeals board, as applicable, during the
32 period from July 2 to September 15, inclusive.

33 (3) The address of the clerk of the county board of
34 equalization or the assessment appeals board, as
35 applicable, at which forms for an application for
36 reduction *in assessment* may be obtained.

37 SEC. 97. Section 3698.5 of the Revenue and Taxation
38 Code is amended to read:

39 3698.5. (a) Except as provided in Section 3698.7, the
40 minimum price at which property may be offered for sale



1 pursuant to this chapter shall be an amount not less than
2 the total amount necessary to redeem, plus costs. For
3 purposes of this subdivision:

4 (1) The “total amount necessary to redeem” is the sum
5 of the following:

6 (A) The amount of defaulted taxes.

7 (B) Delinquent penalties and costs.

8 (C) Redemption penalties.

9 (D) A redemption fee.

10 (2) “Costs” are those amounts described in
11 subdivisions (a) and (b) of Section 4112, Sections 4672,
12 4672.1, 4672.2, and 4673, and subdivision (b) of Section
13 4673.1.

14 (b) This section shall not apply to property or interests
15 that qualify for sale in accordance with the provisions of
16 subdivisions (b) and (c) of Section 3692.

17 (c) Where property or property interests have been
18 offered for sale at least once and no acceptable bids
19 therefor have been received, the tax collector may, in his
20 or her discretion and with the approval of the board of
21 supervisors, offer that property or those interests at the
22 next scheduled sale at a minimum price that the tax
23 collector deems appropriate.

24 SEC. 98. Section 3698.7 of the Revenue and Taxation
25 Code is amended to read:

26 3698.7. (a) With respect to property for which a
27 property tax welfare exemption has been granted and
28 which has become tax defaulted, the minimum price at
29 which the property may be offered for sale pursuant to
30 this chapter shall be the higher of the following:

31 (1) Fifty percent of the fair market value of the
32 property. For the purposes of this paragraph, “fair market
33 value” means the amount as defined in Section 110 as
34 determined pursuant to an appraisal of the property by
35 the county assessor within one year immediately
36 preceding the date of the public auction. From the
37 proceeds of the sale, there shall be distributed to the
38 county general fund an amount to reimburse the county
39 for the cost of appraising the property. The value of the
40 property as determined by the assessor pursuant to an



1 appraisal shall be conclusively presumed to be the fair
 2 market value of the property for the purpose of
 3 determining the minimum price at which the property
 4 may be offered for sale.

5 (2) The total amount necessary to redeem, plus costs.
 6 For purposes of this paragraph:

7 (A) The “total amount necessary to redeem” is the
 8 sum of the following:

9 (i) The amount of defaulted taxes.

10 (ii) Delinquent penalties and costs.

11 (iii) Redemption penalties.

12 (iv) A redemption fee.

13 (B) “Costs” are those amounts described in
 14 subdivisions (a) and (b) of Section 4112, Sections 4672,
 15 4672.1, 4672.2, and 4673, and subdivision (b) of Section
 16 4673.1.

17 (b) This section shall not apply to property or interests
 18 that qualify for sale in accordance with the provisions of
 19 subdivisions (b) and (c) of Section 3692.

20 (c) Where property or property interests have been
 21 offered for sale at least once and no acceptable bids
 22 therefor have been received, the tax collector may, in his
 23 or her discretion and with the approval of the board of
 24 supervisors, offer that property or those interests at the
 25 next scheduled sale at a minimum price that the tax
 26 collector deems appropriate.

27 SEC. 99. Section 6202.5 of the Revenue and Taxation
 28 Code is amended to read:

29 6202.5. Any retailer, other than a nonprofit zoological
 30 society as defined in subdivision (c) of Section 6010.50,
 31 that stores, uses, or otherwise consumes in this state
 32 endangered or threatened animal ~~and~~ or plant species, as
 33 defined in subdivision (b) of Section 6010.50, acquired
 34 through a trade or exchange with a nonprofit zoological
 35 society, shall be liable for the use tax.

36 SEC. 100. Section 6359 of the Revenue and Taxation
 37 Code is amended to read:

38 6359. (a) There are exempted from the taxes
 39 imposed by this part the gross receipts from the sale of,



1 and the storage, use, or other consumption in this state of,
2 food products for human consumption.

3 (b) For the purposes of this section, “food products”
4 include all of the following:

5 (1) Cereals and cereal products, oleomargarine, meat
6 and meat products, fish and fish products, eggs and egg
7 products, vegetables and vegetable products, fruit and
8 fruit products, spices and salt, sugar and sugar products,
9 candy, gum, confectionery, coffee and coffee substitutes,
10 tea, and cocoa and cocoa products.

11 (2) Milk and milk products, milkshakes, malted milks,
12 and any other similar type beverages that are composed
13 at least in part of milk or a milk product and that require
14 the use of milk or a milk product in their preparation.

15 (3) All fruit juices, vegetable juices, and other
16 beverages, whether liquid or frozen, including bottled
17 water, but excluding spirituous, malt, or vinous liquors or
18 carbonated beverages.

19 (c) For purposes of this section, “food products” do not
20 include medicines and preparations in liquid, powdered,
21 granular, tablet, capsule, lozenge, and pill form sold as
22 dietary supplements or adjuncts.

23 (d) None of the exemptions ~~provided for~~ in this
24 section apply to any of the following:

25 (1) When the food products are served as meals on or
26 off the premises of the retailer.

27 (2) When the food products are furnished, prepared,
28 or served for consumption at tables, chairs, or counters or
29 from trays, glasses, dishes, or other tableware whether
30 provided by the retailer or by a person with whom the
31 retailer contracts to furnish, prepare, or serve food
32 products to others.

33 (3) When the food products are ordinarily sold for
34 immediate consumption on or near a location at which
35 parking facilities are provided primarily for the use of
36 patrons in consuming the products purchased at the
37 location, even though ~~such~~ *those* products are sold on a
38 “take out” or “to go” order and are actually packaged or
39 wrapped and taken from the premises of the retailer.

1 (4) When the food products are sold for consumption
2 within a place, the entrance to which is subject to an
3 admission charge, except for national and state parks and
4 monuments, marinas, campgrounds, and recreational
5 vehicle parks.

6 (5) When the food products are sold through a
7 vending machine.

8 (6) When the food products sold are furnished in a
9 form suitable for consumption on the seller's premises,
10 and both of the following apply:

11 (A) Over 80 percent of the seller's gross receipts are
12 from the sale of food products.

13 (B) Over 80 percent of the seller's retail sales of food
14 products are sales subject to tax pursuant to paragraph
15 (1), (2), (3), or (7).

16 (7) When the food products are sold as hot prepared
17 food products.

18 (e) "Hot prepared food products," for the purposes of
19 paragraph (7) of subdivision (d), include a combination
20 of hot and cold food items or components where a single
21 price has been established for the combination and the
22 food products are sold in combination, such as a hot meal,
23 a hot specialty dish or serving, a hot sandwich, or a hot
24 pizza, including any cold components or side items.
25 Paragraph (7) of subdivision (d) ~~shall~~ *does* not apply to
26 a sale for a separate price of bakery goods or beverages
27 (other than bouillon, consommé, or soup), or where the
28 food product is purchased cold or frozen; "hot prepared
29 food products" means those products, items, or
30 components that have been prepared for sale in a heated
31 condition and that are sold at any temperature that is
32 higher than the air temperature of the room or place
33 where they are sold.

34 (f) Notwithstanding paragraph (6) of subdivision (d),
35 if the seller elects to separately account for sales of food
36 products specified in subdivision (b), then the gross
37 receipts from the sale of those food products shall be
38 exempt under subdivision (a), provided that the separate
39 accounting is fully documented in the seller's records.
40 However, if the seller's records do not reflect the separate



1 accounting of the gross receipts from sales of nontaxable
2 food products, the seller's election under this subdivision
3 shall be revoked.

4 SEC. 101. The heading of Chapter 2.92 (commencing
5 with Section 7286.50) of Part 1.7 of Division 2 of the
6 Revenue and Taxation Code is amended to read:

7

8 CHAPTER 2.92. FORT BRAGG ~~BRAGG~~ TRANSACTIONS AND
9 USE TAX

10

11 SEC. 102. Section 17233 of the Revenue and Taxation
12 Code is amended to read:

13 17233. (a) There shall be allowed as a deduction the
14 amount of net interest received by the taxpayer in
15 payment of indebtedness incurred on or after May 1, 1992,
16 of a person or entity engaged in trade or business located
17 in the Los Angeles Revitalization Zone (as defined in
18 Section 7102 of the Government Code).

19 (b) No deduction shall be allowed under subdivision
20 (a) unless at the time the indebtedness is incurred each
21 of the following requirements are met:

22 (1) The trade or business is located solely within the
23 Los Angeles Revitalization Zone (as defined in Section
24 7102 of the Government Code).

25 (2) The indebtedness is incurred solely in connection
26 with activity within the Los Angeles Revitalization Zone.

27 (3) The taxpayer has no equity or other ownership
28 interest in the debtor.

29 ~~(c) This section shall remain in effect only until~~
30 ~~December 1, 1998, and as of that date is repealed.~~

31 ~~(d)~~ This section shall be inoperative on the first day of
32 the taxable year beginning on or after the determination
33 date, and each taxable year thereafter, with respect to the
34 taxpayer's business activities within a geographic area
35 that is excluded from the map pursuant to Section 7102 of
36 the Government Code, or an excluded area determined
37 pursuant to Section 7104 of the Government Code. The
38 determination date is the earlier of the first effective date
39 of a determination under subdivision (c) of Section 7102
40 of the Government Code occurring after December 1,



1 1994, or the first effective date of an exclusion of an area
2 from the amended Los Angeles Revitalization Zone
3 under Section 7104 of the Government Code.

4 *(d) This section shall remain in effect only until*
5 *December 1, 1998, and as of that date is repealed.*

6 SEC. 103. Section 17266 of the Revenue and Taxation
7 Code is amended to read:

8 17266. (a) A taxpayer may elect to treat the cost of
9 any Section 17266 property as an expense that is not
10 chargeable to capital account. Any cost so treated shall be
11 allowed as a deduction for the taxable year in which the
12 taxpayer places the Section 17266 property in service.

13 (b) (1) An election made under this section for any
14 taxable year shall meet both of the following
15 requirements:

16 (A) Specify the items of Section 17266 property to
17 which the election applies and the cost of each of those
18 items that is to be taken into account under subdivision
19 (a).

20 (B) Be made on the taxpayer's original return of the
21 tax imposed by this part for the taxable year.

22 (2) Any election made under this section, and any
23 specifications contained in that election, may not be
24 revoked except with the consent of the Franchise Tax
25 Board.

26 (c) For purposes of this section:

27 (1) "Taxpayer" means a person or entity engaged in a
28 trade or business within the Los Angeles Revitalization
29 Zone designated pursuant to Section 7102 of the
30 Government Code.

31 (2) "Section 17266 property" means any recovery
32 property that is all of the following:

33 (A) Section 1245 property (as defined in Section
34 1245(a)(3) of the Internal Revenue Code).

35 (B) Purchased and placed in service by the taxpayer
36 on or after September 1, 1992, and before the zone
37 expiration date.

38 (C) Used exclusively in a trade or business conducted
39 within the Los Angeles Revitalization Zone designated
40 pursuant to Section 7102 of the Government Code.



1 (3) “Purchase” means any acquisition of property, but
2 only if both of the following apply:

3 (A) The property is not acquired from a person whose
4 relationship to the person acquiring it would result in the
5 disallowance of losses under Section 267 or 707(b) of the
6 Internal Revenue Code (but, in applying Sections 267(b)
7 and 267(c) of the Internal Revenue Code for purposes of
8 this section, Section 267(c)(4) of the Internal Revenue
9 Code shall be treated as providing that the family of an
10 individual shall include only his or her spouse, ancestors,
11 and lineal descendants).

12 (B) The basis of the property in the hands of the
13 person acquiring it is not determined by either of the
14 following:

15 (i) In whole or in part by reference to the adjusted
16 basis of the property in the hands of the person from
17 whom acquired.

18 (ii) Under Section 1014 of the Internal Revenue Code,
19 relating to the basis of the property acquired from a
20 decedent.

21 (4) “Zone expiration date” means the date the Los
22 Angeles Revitalization Zone designation expires, is
23 repealed, or becomes inoperative pursuant to Section
24 7102, 7103, or 7104 of the Government Code.

25 (d) For purposes of this section, the cost of the
26 property does not include that portion of the basis of the
27 property that is determined by reference to the basis of
28 other property held at any time by the person acquiring
29 the property.

30 (e) This section ~~shall~~ *does* not apply to estates and
31 trusts.

32 (f) This section ~~shall~~ *does* not apply to any property
33 described in Section 168(f) of the Internal Revenue
34 Code, relating to property to which Section 168 of the
35 Internal Revenue Code does not apply.

36 (g) This section ~~shall apply~~ *applies* only to Section
37 17266 property that is used by the taxpayer exclusively in
38 a trade or business conducted in the Los Angeles
39 Revitalization Zone.



1 (h) Any amount deducted under subdivision (a) with
2 respect to Section 17266 property that ceases to be used
3 in the taxpayer's trade or business within the Los Angeles
4 Revitalization Zone at any time before the close of the
5 second taxable year after the property was placed in
6 service shall be included in income in the taxable year in
7 which the property ceases to be so used.

8 ~~(i) This section shall remain in effect only until~~
9 ~~December 1, 1998, and as of that date is repealed.~~

10 ~~(j) This section shall be inoperative on the first day of~~
11 ~~the taxable year beginning on or after the determination~~
12 ~~date, and each taxable year thereafter, with respect to the~~
13 ~~taxpayer's business activities within a geographic area~~
14 ~~that is excluded from the map pursuant to Section 7102 of~~
15 ~~the Government Code, or an excluded area determined~~
16 ~~pursuant to Section 7104 of the Government Code. The~~
17 ~~determination date is the earlier of the first effective date~~
18 ~~of a determination under subdivision (c) of Section 7102~~
19 ~~of the Government Code occurring after December 1,~~
20 ~~1994, or the first effective date of an exclusion of an area~~
21 ~~from the amended Los Angeles Revitalization Zone~~
22 ~~under Section 7104 of the Government Code.~~

23 ~~(j) This section shall remain in effect only until~~
24 ~~December 1, 1998, and as of that date is repealed.~~

25 SEC. 104. Section 23051.5 of the Revenue and
26 Taxation Code is amended to read:

27 23051.5. (a) (1) Unless otherwise specifically
28 provided, the terms "Internal Revenue Code," "Internal
29 Revenue Code of 1954," or "Internal Revenue Code of
30 1986," for purposes of this part, mean Title 26 of the
31 United States Code, including all amendments thereto, as
32 enacted on the specified date for the applicable taxable
33 year as defined in paragraph (1) of subdivision (a) of
34 Section 17024.5, except that for purposes of this part,
35 "income year" shall be substituted for "taxable year"
36 throughout that section.

37 (2) Unless otherwise specifically provided, for federal
38 laws enacted on or after January 1, 1987, and on or before
39 the specified date for the income year, uncodified
40 provisions that relate to provisions of the Internal



1 Revenue Code that are incorporated for purposes of this
2 part, shall ~~be applicable~~ *apply* to the same income years
3 as the incorporated provisions.

4 (3) Subtitle G (Tax Technical Corrections) and Part I
5 of Subtitle H (Repeal of Expired or Obsolete Provisions)
6 of the Revenue Reconciliation Act of 1990 (Public Law
7 101-508) modified numerous provisions of the Internal
8 Revenue Code and provisions of prior federal acts, some
9 of which are incorporated by reference into this part.
10 Unless otherwise provided, the provisions described in
11 the preceding sentence, to the extent that they modify
12 provisions that are incorporated into this part, are
13 declaratory of existing law and shall be applied in the
14 same manner and for the same periods as specified in the
15 Revenue Reconciliation Act of 1990.

16 (b) Unless otherwise specifically provided, when
17 applying the Internal Revenue Code for purposes of this
18 part, a reference to any of the following shall not ~~be~~
19 ~~applicable~~ *apply* for purposes of this part:

20 (1) Domestic International Sales Corporations
21 (DISC), as defined in Section 992(a) of the Internal
22 Revenue Code.

23 (2) Foreign Sales Corporations (FSC), as defined in
24 Section 922(a) of the Internal Revenue Code.

25 (3) A personal holding company, as defined in Section
26 542 of the Internal Revenue Code.

27 (4) A foreign personal holding company, as defined in
28 Section 552 of the Internal Revenue Code.

29 (5) A foreign investment company, as defined in
30 Section 1246(b) of the Internal Revenue Code.

31 (6) A foreign trust, as defined in Section 679 of the
32 Internal Revenue Code.

33 (7) Foreign income taxes and foreign income tax
34 credits.

35 (8) Federal tax credits and carryovers of federal tax
36 credits.

37 (c) (1) The provisions contained in Sections 41 to 44,
38 inclusive, and Section 172 of the Tax Reform Act of 1984
39 (Public Law 98-369); relating to treatment of debt



1 instruments; shall not ~~be applicable~~ *apply* for income
2 years beginning before January 1, 1987.

3 (2) The provisions contained in Public Law 99-121;
4 relating to the treatment of debt instruments; shall not be
5 applicable for income years beginning before January 1,
6 1987.

7 (3) For income years beginning on and after January
8 1, 1987, the provisions referred to by paragraphs (1) and
9 (2) shall ~~be applicable~~ *apply* for purposes of this part in
10 the same manner and with respect to the same obligations
11 as the federal provisions, except as otherwise provided in
12 this part.

13 (d) When applying the Internal Revenue Code for
14 purposes of this part, regulations issued by “the
15 secretary,” in effect as of the specified effective date of
16 the Internal Revenue Code sections referred to in
17 paragraph (1) of subdivision (a) of Section 17024.5, shall
18 ~~be applicable~~ *apply* to the extent that they do not conflict
19 with this part or with regulations issued by the Franchise
20 Tax Board.

21 (e) Whenever this part allows a taxpayer to make an
22 election, the following rules shall apply:

23 (1) A proper election filed with the Internal Revenue
24 Service in accordance with the Internal Revenue Code or
25 regulations issued by “the secretary” shall be deemed to
26 be a proper election for purposes of this part, unless
27 otherwise expressly provided in this part or in regulations
28 issued by the Franchise Tax Board.

29 (2) A copy of that election shall be furnished to the
30 Franchise Tax Board upon request.

31 (3) To obtain treatment other than that elected for
32 federal purposes, a separate election shall be filed with
33 the Franchise Tax Board at the time and in the manner
34 ~~which~~ *that* may be required by the Franchise Tax Board.

35 (f) Whenever this part allows or requires a taxpayer to
36 file an application or seek consent, the rules set forth in
37 subdivision (e) shall apply to that application or consent.

38 (g) When applying the Internal Revenue Code for
39 purposes of determining the statute of limitations under



1 this part, any reference to a period of three years shall be
2 modified to read *mean* four years for purposes of this part.

3 (h) When applying, for purposes of this part, any
4 section of the Internal Revenue Code or any applicable
5 regulation thereunder, all of the following shall apply:

6 (1) For purposes of Chapter 2 (commencing with
7 Section 23101), Chapter 2.5 (commencing with Section
8 23400), and Chapter 3 (commencing with Section 23501),
9 the term “taxable income” shall mean “net income.”

10 (2) For purposes of Article 2 (commencing with
11 Section 23731) of Chapter 4, the term “taxable income”
12 shall mean “unrelated business taxable income,” as
13 defined by Section 23732.

14 (3) Any reference to “subtitle,” “Chapter 1,” or
15 “chapter” shall mean this part.

16 (4) The provisions of Section 7806 of the Internal
17 Revenue Code, relating to construction of title, shall
18 apply.

19 (5) Any provision of the Internal Revenue Code that
20 becomes operative on or after the specified date for that
21 income year shall become operative on the same date for
22 purposes of this part.

23 (6) Any provision of the Internal Revenue Code that
24 becomes inoperative on or after the specified date for
25 that income year shall become inoperative on the same
26 date for purposes of this part.

27 (7) Due account shall be made for differences in
28 federal and state terminology, effective dates,
29 substitution of “income year” for “taxable year” when
30 appropriate, substitution of “Franchise Tax Board” for
31 “secretary” when appropriate, and other obvious
32 differences.

33 (8) Any provision of the Internal Revenue Code that
34 refers to a “corporation” shall, when applicable for
35 purposes of this part, include a “bank,” as defined by
36 Section 23039.

37 (i) Any reference to a specific provision of the Internal
38 Revenue Code shall include modifications of that
39 provision, if any, in this part.



1 SEC. 105. Section 23622 of the Revenue and Taxation
2 Code is amended to read:

3 23622. (a) There shall be allowed as a credit against
4 the “tax” (as defined by Section 23036) an amount equal
5 to the sum of each of the following:

6 (1) Fifty percent for qualified wages in the first year
7 of employment.

8 (2) Forty percent for qualified wages in the second
9 year of employment.

10 (3) Thirty percent for qualified wages in the third year
11 of employment.

12 (4) Twenty percent for qualified wages in the fourth
13 year of employment.

14 (5) Ten percent for qualified wages in the fifth year of
15 employment.

16 (b) For purposes of this section:

17 (1) “Qualified wages” means the wages paid or
18 incurred by the employer during the income year to
19 qualified disadvantaged individuals. “Qualified wages”
20 means that portion of hourly wages ~~which~~ *that* does not
21 exceed 150 percent of the minimum wage.

22 (2) “Qualified years one through five wages” means,
23 with respect to any individual, qualified wages received
24 during the 60-month period beginning with the day the
25 individual commences employment within an enterprise
26 zone.

27 (3) “Minimum wage” means the wage established by
28 the Industrial Welfare Commission as provided for in
29 Chapter 1 (commencing with Section 1171) of Part 4 of
30 Division 2 of the Labor Code.

31 (c) For purposes of this section:

32 (1) “Qualified disadvantaged individual” means an
33 individual—

34 (A) Who is a qualified employee within the meaning
35 of subdivision (d).

36 (B) Who is hired by the employer after the
37 designation of the area in which services were performed
38 as an enterprise zone (under Section 7073 of the
39 Government Code).

40 (C) Who is any of the following:



1 (i) An individual who is eligible for services under the
2 federal Job Training Partnership Act (29 U.S.C. Sec. 1501
3 et seq.) and who is receiving, or is eligible to receive,
4 subsidized employment, training, or services funded by
5 the federal Job Training Partnership Act.

6 (ii) Any individual who is eligible to be a voluntary or
7 mandatory registrant under the Greater Avenues for
8 Independence Act of 1985 (GAIN) provided for pursuant
9 to Article 3.2 (commencing with Section 11320) of
10 Chapter 2 of Part 3 of Division 9 of the Welfare and
11 Institutions Code.

12 (iii) Any individual who is eligible as determined by
13 the Employment Development Department under the
14 federal Targeted Jobs Tax Credit Program as long as that
15 program is in effect.

16 (2) Priority shall be provided to an individual who is
17 enrolled in a qualified program under the federal Job
18 Training Partnership Act or the Greater Avenues for
19 Independence Act of 1985 or who is eligible under the
20 federal Targeted Jobs Tax Credit Program.

21 (d) For purposes of this section, “qualified employee”
22 means an individual—

23 (1) At least 90 percent of whose services for the
24 taxpayer during the income year are directly related to
25 the conduct of the taxpayer’s trade or business located in
26 an enterprise zone, and

27 (2) Who performs at least 50 percent of his or her
28 services for the taxpayer during the income year in an
29 enterprise zone.

30 (e) The taxpayer shall do both of the following:

31 (1) Obtain from either the Employment
32 Development Department or the local county or city Job
33 Training Partnership Act administrative entity or the
34 local county GAIN office or social services agency, as
35 appropriate, a certification ~~which~~ *that* provides that a
36 qualified individual meets the eligibility requirements
37 specified in subparagraph (C) of paragraph (1) of
38 subdivision (c).

39 (2) Retain a copy of the certification and provide it
40 upon request to the Franchise Tax Board.



1 (f) (1) For purposes of this section, all employees of
2 all corporations ~~which~~ *that* are members of the same
3 controlled group of corporations shall be treated as
4 employed by a single employer. In that case, the credit (if
5 any) allowable by this section to each member shall be
6 determined by reference to its proportionate share of the
7 qualified wages giving rise to the credit. For purposes of
8 this subdivision, “controlled group of corporations” has
9 the meaning given to that term by Section 1563(a) of the
10 Internal Revenue Code, except that—

11 (A) “More than 50 percent” shall be substituted for “at
12 least 80 percent” each place it appears in Section
13 1563(a)(1) of the Internal Revenue Code.

14 (B) The determination shall be made without regard
15 to subsections (a)(4) and (e)(3)(C) of Section 1563 of the
16 Internal Revenue Code.

17 (2) If an employer acquires the major portion of a
18 trade or business of another employer (hereinafter in this
19 paragraph referred to as the “predecessor”) or the major
20 portion of a separate unit of a trade or business of a
21 predecessor, then, for purposes of applying this section
22 (other than subdivision (g)) for any calendar year ending
23 after that acquisition, the employment relationship
24 between an employee and an employer shall not be
25 treated as terminated if the employee continues to be
26 employed in that trade or business.

27 (g) (1) If the employment of any employee with
28 respect to whom qualified wages are taken into account
29 under subdivision (a) is terminated by the taxpayer at
30 any time during the first 270 days of that employment
31 (whether or not consecutive) or before the close of the
32 270th calendar day after the day in which that employee
33 completes 90 days of employment with the taxpayer, the
34 tax imposed by this part for the income year in which that
35 employment is terminated shall be increased by an
36 amount equal to the credit allowed under subdivision (a)
37 for that income year and all prior income years
38 attributable to qualified wages paid or incurred with
39 respect to that employee.



1 (2) (A) Paragraph (1) ~~shall~~ *does* not apply to any of
2 the following:

3 (i) A termination of employment of an employee who
4 voluntarily leaves the employment of the taxpayer.

5 (ii) A termination of employment of an individual
6 who, before the close of the period referred to in
7 paragraph (1), becomes disabled and unable to perform
8 the services of that employment, unless that disability is
9 removed before the close of that period and the taxpayer
10 fails to offer reemployment to that individual.

11 (iii) A termination of employment of an individual, if
12 it is determined under the applicable unemployment
13 compensation provisions that the termination was due to
14 the misconduct of that individual.

15 (iv) A termination of employment of an individual due
16 to a substantial reduction in the trade or business
17 operations of the taxpayer.

18 (v) A termination of employment of an individual, if
19 that individual is replaced by other qualified employees
20 so as to create a net increase in both the number of
21 employees and the hours of employment.

22 (B) For purposes of paragraph (1), the employment
23 relationship between the taxpayer and an employee shall
24 not be treated as terminated—

25 (i) By a transaction to which Section 381(a) of the
26 Internal Revenue Code applies, if the employee
27 continues to be employed by the acquiring corporation,
28 or

29 (ii) By reason of a mere change in the form of
30 conducting the trade or business of the taxpayer, if the
31 employee continues to be employed in that trade or
32 business and the taxpayer retains a substantial interest in
33 that trade or business.

34 (3) Any increase in tax under paragraph (1) shall not
35 be treated as tax imposed by this part for purposes of
36 determining the amount of any credit allowable under
37 this part.

38 (h) ~~It~~ *Rules similar to the rules provided in*
39 *subsections (e) and (h) of Section 46 of the Internal*



1 *Revenue Code shall apply in the case of—of either of the*
2 *following:*

3 (1) An organization to which Section 593 of the
4 Internal Revenue Code applies, ~~and.~~

5 (2) A regulated investment company or a real estate
6 investment trust subject to taxation under this part
7 ~~rules similar to the rules provided in subsections (e) and~~
8 ~~(h) of Section 46 of the Internal Revenue Code shall~~
9 ~~apply.~~

10 (i) For purposes of this section, “enterprise zone”
11 means an area for which designation as an enterprise
12 zone is in effect under Section 7073 of the Government
13 Code.

14 (j) The credit shall be reduced by the credit allowed
15 under Section 23621. The credit *also* shall ~~also~~ be reduced
16 by the federal credit allowed under Section 51 of the
17 Internal Revenue Code.

18 In addition, any deduction otherwise allowed under
19 this part for the wages or salaries paid or incurred by the
20 taxpayer upon which the credit is based shall be reduced
21 by the amount of the credit.

22 (k) In the case where the credit allowed under this
23 section exceeds the “tax,” the excess may be carried over
24 to reduce the “tax” in the following year, and succeeding
25 years if necessary, for the number of years in which the
26 designation of an enterprise zone under Section 7073 of
27 the Government Code is operative, or 15 income years,
28 if longer, until the credit has been exhausted.

29 (l) The amount of the credit allowed by this section
30 shall not in any year exceed the amount of tax ~~which~~ *that*
31 would be imposed on the income attributed to business
32 activities of the taxpayer within the enterprise zone (as
33 defined in Section 7073 of the Government Code). The
34 amount of that attributed income shall be determined in
35 accordance with the provisions of Article 2 (commencing
36 with Section 25120) of Chapter 17, modified for purposes
37 of this section as follows:

38 (1) For income years beginning on or after January 1,
39 1991, and ending on or before December 31, 1996, income
40 shall be apportioned to the enterprise zone by



1 multiplying total income from the business by a fraction,
2 the numerator of which is the property factor plus the
3 payroll factor, and the denominator of which is two.

4 (2) “The enterprise zone” shall be substituted for “this
5 state.”

6 SEC. 106. Section 24356.4 of the Revenue and
7 Taxation Code is amended to read:

8 24356.4. (a) A taxpayer may elect to treat the cost of
9 any Section 24356.4 property as an expense that is not
10 chargeable to capital account. Any cost so treated shall be
11 allowed as a deduction for the income year in which the
12 taxpayer places the Section 24356.4 property in service.

13 (b) (1) An election made under this section for any
14 income year shall meet both of the following
15 requirements:

16 (A) Specify the items of Section 24356.4 property to
17 which the election applies and the cost of each of those
18 items that is to be taken into account under subdivision
19 (a).

20 (B) Be made on the taxpayer’s original return of the
21 tax imposed by this part for the income year.

22 (2) Any election made under this section, and any
23 specifications contained in that election, may not be
24 revoked except with the consent of the Franchise Tax
25 Board.

26 (c) For purposes of this section:

27 (1) “Taxpayer” means a bank or corporation engaged
28 in a trade or business within the Los Angeles
29 Revitalization Zone designated pursuant to Section 7102
30 of the Government Code.

31 (2) “Section 24356.4 property” means any recovery
32 property that is all of the following:

33 (A) Section 1245 property (as defined in Section
34 1245(a)(3) of the Internal Revenue Code).

35 (B) Purchased and placed in service by the taxpayer
36 on or after September 1, 1992, and before the zone
37 expiration date.

38 (C) Used exclusively in a trade or business conducted
39 within the Los Angeles Revitalization Zone designated
40 pursuant to Section 7102 of the Government Code.



1 (3) “Purchase” means any acquisition of property, but
2 only if all of the following apply:

3 (A) The property is not acquired from a person whose
4 relationship to the person acquiring it would result in the
5 disallowance of losses under Section 267 or 707(b) of the
6 Internal Revenue Code (but, in applying Sections 267(b)
7 and 267(c) of the Internal Revenue Code, Section
8 267(c)(4) of the Internal Revenue Code shall be treated
9 as providing that the family of an individual shall include
10 only his or her spouse, ancestors, and lineal descendants).

11 (B) The property is not acquired by one member of an
12 affiliated group from another member of the same
13 affiliated group.

14 (C) The basis of the property in the hands of the
15 person acquiring it is not determined in whole or in part
16 by reference to the adjusted basis of the property in the
17 hands of the person from whom acquired.

18 (4) “Zone expiration date” means the date the Los
19 Angeles Revitalization Zone designation expires, is
20 repealed, or becomes inoperative pursuant to Section
21 7102, 7103, or 7104 of the Government Code.

22 (d) This section ~~shall~~ *does* not apply to any property
23 described in Section 168(f) of the Internal Revenue
24 Code, relating to property to which Section 168 of the
25 Internal Revenue Code does not apply.

26 (e) This section ~~shall apply~~ *applies* only to Section
27 24356.4 property that is used by the taxpayer exclusively
28 in a trade or business conducted in the Los Angeles
29 Revitalization Zone.

30 (f) Any amount deducted under subdivision (a) with
31 respect to Section 24356.4 property that ceases to be used
32 in the taxpayer’s trade or business within the Los Angeles
33 Revitalization Zone at any time before the close of the
34 second income year after the property was placed in
35 service shall be included in income in the income year in
36 which property ceases to be so used.

37 (g) ~~This section shall remain in effect only until~~
38 ~~December 1, 1998, and as of that date is repealed.~~

39 (h) ~~This section shall be inoperative on the first day of~~
40 ~~the income year beginning on or after the determination~~



1 date, and each income year thereafter, with respect to the
2 taxpayer's business activities within a geographic area
3 that is excluded from the map pursuant to Section 7102 of
4 the Government Code, or an excluded area determined
5 pursuant to Section 7104 of the Government Code. The
6 determination date is the earlier of the first effective date
7 of a determination under subdivision (c) of Section 7102
8 of the Government Code occurring after December 1,
9 1994, or the first effective date of an exclusion of an area
10 from the amended Los Angeles Revitalization Zone
11 under Section 7104 of the Government Code.

12 *(h) This section shall remain in effect only until*
13 *December 1, 1998, and as of that date is repealed.*

14 SEC. 107. Section 24385 of the Revenue and Taxation
15 Code is amended to read:

16 24385. (a) There shall be allowed as a deduction the
17 amount of net interest received by the taxpayer in
18 payment of indebtedness incurred on or after May 1, 1992,
19 of a person or entity engaged in trade or business located
20 in the Los Angeles Revitalization Zone (as defined in
21 Section 7102 of the Government Code).

22 (b) No deduction shall be allowed under subdivision
23 (a) unless at the time the indebtedness is incurred each
24 of the following requirements are met:

25 (1) The trade or business is located solely within the
26 Los Angeles Revitalization Zone (as defined in Section
27 7102 of the Government Code).

28 (2) The indebtedness is incurred solely in connection
29 with activity within the Los Angeles Revitalization Zone.

30 (3) The taxpayer has no equity or other ownership
31 interest in the debtor.

32 ~~(c) This section shall remain in effect only until~~
33 ~~December 1, 1998, and as of that date is repealed.~~

34 ~~(d) This section shall be inoperative on the first day of~~
35 ~~the income year beginning on or after the determination~~
36 ~~date, and each income year thereafter, with respect to the~~
37 ~~taxpayer's business activities within a geographic area~~
38 ~~that is excluded from the map pursuant to Section 7102 of~~
39 ~~the Government Code, or an excluded area determined~~
40 ~~pursuant to Section 7104 of the Government Code. The~~



1 determination date is the earlier of the first effective date
2 of a determination under subdivision (c) of Section 7102
3 of the Government Code occurring after December 1,
4 1994, or the first effective date of an exclusion of an area
5 from the amended Los Angeles Revitalization Zone
6 under Section 7104 of the Government Code.

7 *(d) This section shall remain in effect only until*
8 *December 1, 1998, and as of that date is repealed.*

9 SEC. 108. Section 60706.1 of the Revenue and
10 Taxation Code is amended to read:

11 60706.1. In addition to the fine or imprisonment, or
12 both, each person convicted under Section 60706 shall
13 pay, in the court's discretion, up to two dollars (\$2) for
14 each gallon of diesel fuel, or portion thereof, knowingly
15 removed, entered, blended, or delivered into a fuel tank,
16 or possessed, kept, stored, or retained for the purpose of
17 removal or removed, or offered for removal, or entry, or
18 entered, or for sale, or actually sold, or offered for sale, or
19 for the purpose of use, or actually used, or for the purpose
20 of delivery into a fuel tank, or actually delivered into a
21 fuel tank, or offered for delivery into a fuel tank, in
22 violation of Section 60706, as determined by the court.
23 Proceeds of the assessed penalty shall be distributed to
24 the treasurer of the county in which the action was
25 brought. After reimbursing the prosecuting agency for its
26 costs of prosecution, and after deducting ~~its~~ *the county's*
27 reasonable costs of administration, the remaining
28 proceeds shall be distributed to the Motor Vehicle Fuel
29 Account in the Transportation Tax Fund. Funds
30 distributed pursuant to this section to the Motor Vehicle
31 Fuel Account shall be available, upon appropriation by
32 the Legislature, to pay administrative costs of the board
33 to enforce this part.

34 SEC. 109. Section 60707.1 of the Revenue and
35 Taxation Code is amended to read:

36 60707.1. In addition to the fine or imprisonment, or
37 both, each person convicted under Section 60707 shall
38 pay, in the court's discretion, up to two dollars (\$2) for
39 each gallon of diesel fuel, or portion thereof, knowingly
40 removed, entered, blended, or delivered into a fuel tank,



1 or possessed, kept, stored, or retained for the purpose of
2 removal or removed, or offered for removal, or entry, or
3 entered, or for the purpose of sale, or actually sold, or
4 offered for sale, or for the purpose of use, or actually used,
5 or delivery into a fuel tank, or delivered into a fuel tank,
6 or offered for delivery into a fuel tank, in violation of
7 Section 60707, as determined by the court. Proceeds of
8 the assessed penalty shall be distributed to the treasurer
9 of the county in which the action was brought. After
10 reimbursing the prosecuting agency for its costs of
11 prosecution, and after deducting ~~its~~ *the county's*
12 reasonable costs of administration, the remaining
13 proceeds shall be distributed to the Motor Vehicle Fuel
14 Account in the Transportation Tax Fund. Funds
15 distributed pursuant to this section to the Motor Vehicle
16 Fuel Account shall be available, upon appropriation by
17 the Legislature, to pay administrative costs of the board
18 to enforce this part.

19 SEC. 110. Section 10218.5 of the Unemployment
20 Insurance Code is amended to read:

21 10218.5. (a) This chapter shall remain in effect only
22 until January 1, 2002, and as of that date is repealed, unless
23 a later enacted statute, which is chaptered before January
24 1, 2002, deletes or extends that date.

25 (b) The panel may enter into contracts that permit
26 employment training through June 30, 2002, ~~however~~
27 *However*, no contract shall have a termination date that
28 extends beyond December 31, 2002.

29 (c) In the event a later enacted statute does not extend
30 the January 1, 2002, repeal date of this chapter, the panel
31 shall enter into an agreement with another state agency,
32 to be selected by the Governor, that shall act on behalf of
33 the panel for the sole purpose of contract administration,
34 which shall include, but is not limited to, monitoring
35 performance, generating amendments to downsize the
36 contracts, closing out contracts, auditing contracts, and
37 making payment for any contracts that extend beyond
38 January 1, 2002.

39 (d) Any agency acting on behalf of the panel pursuant
40 to this section may seek a budget appropriation or



1 augmentation for both the administration of the program
2 and payment to contractors.

3 SEC. 111. Section 15037.1 of the Unemployment
4 Insurance Code is amended to read:

5 15037.1. (a) The State Council shall be responsible
6 for developing an education and job training report card
7 program to assess the accomplishments of California's
8 work force preparation system.

9 (1) A subcommittee of the State Council shall be
10 established for this purpose.

11 (2) The subcommittee shall be comprised of three
12 private sector members of the State Council, the director
13 of the department, the Superintendent of Public
14 Instruction, the Chancellor of the California Community
15 Colleges, or their designees, and representatives of
16 programs that are to be measured under the report card
17 program.

18 (3) The subcommittee shall be responsible for
19 designing and implementing, or contracting with an
20 operating entity for the implementation of, a system that
21 can compile, maintain, and disseminate information on
22 the performance of providers, programs, and the overall
23 work force preparation system.

24 (b) By January 1, 2001, the subcommittee or an
25 operating entity under contract to the subcommittee
26 shall operate a comprehensive performance-based
27 accountability system ~~which~~ *that* matches the social
28 security numbers of former participants in state
29 education and training programs with information in files
30 of state and federal agencies that maintain employment
31 and educational records and identifies the occupations of
32 those former participants whose social security numbers
33 are found in employment records.

34 (c) This system shall measure the performance of state
35 and federally funded education and training programs.
36 Programs to be measured may include programs in
37 receipt of funds from the Job Training Partnership Act,
38 the Carl D. Perkins Vocational Education Act, the Job
39 Opportunities and Basic Skills program, the Food Stamp
40 Employment and Training program, the Wagner Peyser



1 Act, the Employment Training Panel, adult education
2 programs as defined by paragraph (9) of subdivision (b)
3 of Section 10521, vocational education programs, and
4 certificated community college programs.

5 (d) Job training and education providers receiving
6 funding identified in subdivision (c) shall report to the
7 subcommittee or an operating entity under contract to
8 the subcommittee, as the case may be, on participant
9 social security numbers and economic and demographic
10 characteristics, including, but not limited to, age, gender,
11 race or ethnicity, and education achievement. The State
12 Council shall establish the acceptable format and
13 timeframes for data submission.

14 (e) The system shall be designed to measure factors
15 such as:

16 (1) Amount and source of funding.

17 (2) Program entrance and successful completion
18 rates.

19 (3) Employment and wage information for one, and
20 three years after completion of training.

21 (4) The relationship of training to employment.

22 (5) Academic achievement for one and three years
23 after completion of training.

24 (6) Achievement of industry skill standard
25 certifications, where they exist.

26 (7) Return on public investment.

27 (f) Based upon the information compiled pursuant to
28 this section, the subcommittee or an operating entity
29 under contract to the subcommittee, as the case may be,
30 shall, by December 31, 1997, and each December 31
31 thereafter, do all of the following:

32 (1) Prepare and disseminate report cards for all
33 training and education providers in receipt of funds
34 included in the tracking system.

35 (2) Prepare and disseminate local and statewide
36 report cards that measure the outcomes of the individual
37 programs that operate as part of the work force
38 development system.

39 (3) Prepare and disseminate a state report card that
40 measures the performance of the entire system of work



1 force preparation and the effectiveness of the system in
2 meeting employers' needs for educated and trained
3 workers and the clients' needs for improving their
4 economic well-being.

5 (g) The State Council shall develop objective
6 performance standards emphasizing the principles of
7 continuous improvement for the programs covered
8 under this section, and ~~shall develop~~ a system of sanctions
9 and incentives to encourage performance ~~which that~~
10 meet these standards.

11 (h) The State Council shall explore the feasibility of
12 including the following persons in this system:

13 (1) Attendees at private postsecondary institutions.

14 (2) Recipients of federal student loans.

15 (3) Recipients of Pell grants.

16 (4) ~~Students~~ Pupils in grades 11 and 12.

17 (5) Students enrolled in any community college,
18 California State University, or University of California
19 program.

20 (i) The sole purpose of this section is to assess the
21 performance of state and federal employment and
22 training providers and programs in preparing
23 Californians for the work force. Collection and use of
24 social security numbers pursuant to this section shall be
25 consistent with the requirements of Section 7 of the
26 federal Privacy Act of 1974 (P.L. 93-579) and Section
27 405(c)(2)(C) of Title 42 of the United States Code.
28 Notwithstanding Chapter 3.5 (commencing with Section
29 6250) of Division 7 of Title 1 of the Government Code, or
30 any other provision of law, the social security number of
31 any person obtained pursuant to this section is not a
32 public record, and shall not be disclosed except for the
33 purpose of this section. Information obtained pursuant to
34 this section shall not be sold or distributed to any entity
35 without prior consent from the individual, or his or her
36 parent or guardian, with respect to whom the
37 information is gathered. ~~However, this shall not preclude~~
38 *This subdivision does not prohibit* the exchange of
39 information with other governmental departments and
40 agencies, both federal and state, that are concerned with



1 the administration of work force development programs.
2 Neither the subcommittee nor an operating entity under
3 contract to the subcommittee, as the case may be, may
4 make public any information that could identify an
5 individual or his or her employer.

6 (j) An education and training program that requires
7 information gathered by the education and job training
8 report card program shall use the report card program
9 and shall not initiate automated matching of records in
10 duplication of methods already in place as a result of the
11 report card program.

12 (k) Funding for the development and maintenance of
13 the education and job training report card program shall
14 be made available on a shared basis by the programs the
15 report card program is measuring, to the extent
16 authorized by federal and state law. The subcommittee,
17 or the operating entity under contract to the
18 subcommittee, shall have the authority to assess each of
19 the programs with an appropriate share of the costs of the
20 report card program. Administrative funds currently
21 used for program followup activities for the identified
22 programs shall be redirected for this purpose, if
23 authorized by federal law.

24 (l) The state council shall apply for any federal waivers
25 that may be necessary to implement this section.

26 SEC. 112. Section 415 of the Vehicle Code is amended
27 to read:

28 415. (a) A “motor vehicle” is a vehicle ~~which~~ *that* is
29 self-propelled.

30 (b) “Motor vehicle” does not include a self-propelled
31 wheelchair, invalid tricycle, or motorized quadricycle
32 when operated by a person who, by reason of physical
33 disability, is otherwise unable to move about as a
34 pedestrian.

35 SEC. 113. Section 672 of the Vehicle Code is amended
36 to read:

37 672. (a) “Vehicle manufacturer” is any person who
38 produces from raw materials or new basic components a
39 vehicle of a type subject to registration under this code,
40 or off-highway motorcycles subject to ~~identification~~



1 *identification* under this code, or who permanently alters,
2 for purposes of retail sales, new commercial vehicles by
3 converting the vehicles into housecars ~~which~~ *that* display
4 the insignia of approval required by Section 18056 of the
5 Health and Safety Code and any regulations issued
6 pursuant thereto by the Department of Housing and
7 Community Development. As used in this section,
8 “permanently alters” does not include the permanent
9 attachment of a camper to a vehicle.

10 (b) A vehicle manufacturer who produces a vehicle of
11 a type subject to registration that consists of used or
12 reconditioned parts, for the purposes of the code, is a
13 remanufacturer, as defined in Section 507.8.

14 (c) Unless a vehicle manufacturer either grants
15 franchises to franchisees in this state, or issues vehicle
16 warranties directly to franchisees in this state or
17 consumers in this state, the manufacturer shall have an
18 established place of business or a representative in this
19 state.

20 (d) The scope and application of this section ~~is~~ *are*
21 limited to Division 2 (commencing with Section 1500)
22 and Division 5 (commencing with Section 11100).

23 SEC. 114. Section 1656.2 of the Vehicle Code is
24 amended to read:

25 1656.2. The department shall prepare and publish a
26 printed summary describing the penalties for
27 noncompliance with ~~Sections~~ *Section* 16000 and ~~16028~~,
28 which shall be included with each motor vehicle
29 registration, registration renewal, and transfer of
30 registration and with each driver’s license and license
31 renewal. The printed summary may contain, but is not
32 limited to, the following wording:

33

34 “IMPORTANT FACTS ABOUT ENFORCEMENT OF
35 CALIFORNIA’S COMPULSORY FINANCIAL
36 RESPONSIBILITY LAW

37

38

39 The Robbins-McAlister Financial Responsibility Act
40 requires every driver to maintain proof of valid



1 automobile liability insurance, bond, cash deposit, or
2 self-insurance which has been approved by the
3 Department of Motor Vehicles.

4 You must provide proof of financial responsibility
5 after you are cited by a peace officer for a traffic
6 violation. The act requires that you provide the officer
7 with the name of your insurer and the policy
8 identification number. Your insurer will provide
9 written evidence of this number. The back of your
10 vehicle registration form contains a space for writing
11 this information. Failure to prove your financial
12 responsibility can result in fines of up to two hundred
13 forty dollars (\$240) and loss of your driver's license.
14 Falsification of proof can result in fines of up to five
15 hundred dollars (\$500) or 30 days in jail, or both.

16 Under existing law, if you are involved in an accident
17 that results in damages over five hundred dollars
18 (\$500) or in any injury or fatality, you must file a report
19 of the accident with the Department of Motor Vehicles
20 within 10 days of the accident. If you fail to file a report
21 or fail to provide evidence of financial responsibility on
22 the report, your driving privilege will be suspended for
23 one year. Your suspension notice will notify you of the
24 department's action and of your right to a hearing. Your
25 suspension notice will also inform you that if you
26 request a hearing, it must be conducted within 30 days
27 of your written request, and that a decision is to be
28 rendered within 15 days of the conclusion of the
29 hearing.”

30
31 SEC. 115. Section 1675 of the Vehicle Code is
32 amended to read:

33 1675. (a) The director shall establish standards and
34 develop criteria for the approval of driver improvement
35 courses specifically designed for the safe driving needs of
36 drivers who are 55 years of age or older, which shall be
37 known as the mature driver improvement course.

38 (b) The curriculum for the course provided for in
39 subdivision (a) shall include, but is not limited to, all of
40 the following components:

1 (1) How impairment of visual and audio perception
2 affects driving performance and how to compensate for
3 that impairment.

4 (2) The effects of fatigue, medications, and alcohol on
5 driving performance, when experienced alone or in
6 combination, and precautionary measures to prevent or
7 offset ill effects.

8 (3) Updates on rules of the road and equipment,
9 including, but not limited to, safety belts and safe and
10 efficient driving techniques under present day road and
11 traffic conditions.

12 (4) How to plan travel time and select routes for safety
13 and efficiency.

14 (5) How to make crucial decisions in dangerous,
15 hazardous, and unforeseen situations.

16 (c) Each mature driver improvement course shall
17 include not less than 400 minutes of instruction, and shall
18 not exceed 25 students per single day of instruction or 30
19 students per two days of instruction.

20 (d) Upon satisfactory completion of the mature driver
21 improvement course, participants shall receive and
22 retain a certificate provided by the department, awarded
23 and distributed by the course provider, which shall be
24 suitable evidence of satisfactory course completion, and
25 eligibility for three years, from the date of completion, for
26 the mature driver vehicle liability insurance premium
27 reduction pursuant to Section 11628.3 of the Insurance
28 Code.

29 (e) The course provider shall report to the
30 department, upon enrollment, the name of each
31 participant and the person's driver's license number. The
32 course provider shall also transmit a copy of each
33 certificate distributed to a participant to the department.
34 ~~These reports shall be used in the evaluation required by~~
35 ~~Section 1678.~~

36 (f) The certificate may be renewed every three years
37 from the date of completion by successfully completing
38 a subsequent mature driver improvement course.

39 (g) For the purposes of this section, and Sections 1676
40 and 1677, "course provider" means any person offering a



1 mature driver improvement course approved by the
2 department pursuant to subdivision (a) of this section.

3 SEC. 116. Section 1810 of the Vehicle Code is
4 amended to read:

5 1810. (a) Except as provided in Sections 1806.5,
6 1808.2, 1808.4, 1808.5, 1808.7, and 1808.8, the department
7 may permit inspection of or sell, or both, information
8 from its records concerning the registration of any
9 vehicle or information from the files of drivers' licenses
10 at a charge sufficient to pay the actual cost to the
11 department for providing the inspection or sale of the
12 information, including, but not limited to, costs incurred
13 by the department in carrying out subdivision (b), the
14 charge for the information to be determined by the
15 director. The department may sell stamps or coupons in
16 appropriate denominations for the convenient
17 enforcement of this section. The stamps or coupons may
18 be used to accompany requests for information in lieu of
19 cash, but otherwise shall be nonredeemable and shall be
20 canceled by the department upon granting the request
21 for information. This section does not apply to statistical
22 information of the type previously compiled and
23 distributed by the department.

24 (b) With respect to the inspection or sale of
25 information concerning the registration of any vehicle or
26 of information from the files of drivers' licenses, the
27 department shall, by regulation, establish administrative
28 procedures under which any person making a request for
29 that information shall be required to identify himself or
30 herself and state the reason for making the request. The
31 procedures shall provide for the verification of the name
32 and address of the person making a request for the
33 information, and the department may require the person
34 to produce that information as it determines is necessary
35 in order to ensure that the name and address of the
36 person are his or her true name and address. The
37 procedures may provide for a 10-day delay in the release
38 of the requested information. The procedures shall also
39 provide for notification to the person to whom the
40 information primarily relates, as to what information was



1 provided and to whom it was provided. The department
2 shall, by regulation, establish a reasonable period of time
3 for which a record of all the foregoing shall be
4 maintained.

5 The procedures required by this subdivision do not
6 apply to any governmental entity, any person who has
7 applied for and has been issued a requester code by the
8 department or any court of competent jurisdiction.

9 (c) With respect to the inspection or sale of
10 information from the files of drivers' licenses, the
11 department may require both the full name of the driver
12 and either the driver's license number or date of birth as
13 identifying points of the record, except that the
14 department may disclose a record without two
15 identifying points if the department determines that the
16 public interest in disclosure outweighs the public interest
17 in personal privacy.

18 (e)–

19 (d) With respect to the inspection or sale of
20 information from the files of drivers' licenses, certificates
21 of ownership, and registration cards, the department
22 shall not, for a fee or otherwise, provide photocopies to or
23 allow copying by the public.

24 SEC. 117. Section 4655 of the Vehicle Code is
25 amended to read:

26 4655. The department shall submit a final report to
27 the Legislature on the voluntary common registration
28 renewal date study on or before July 1, 1984. The final
29 report shall include, but not be limited to, a summary of
30 the—~~department's~~ *department's* findings and
31 recommendations.

32 SEC. 118. Section 5011.5 of the Vehicle Code is
33 amended to read:

34 5011.5. Every limousine operated by a charter-party
35 carrier, as defined by subdivision (h) of Section 5371.4 *of*
36 *the Public Utilities Code*, shall display a special
37 identification license plate issued pursuant to Section
38 5385.6 of ~~the Public Utilities Code~~ *that code*.

39 This section shall become operative on July 1, 1995.



1 SEC. 119. Section 5070 of the Vehicle Code is
2 amended to read:

3 5070. (a) The department, in consultation with the
4 American Heritage Rodeo Foundation, shall design and
5 make available for issuance pursuant to Section 5060
6 special interest license plates depicting a significant
7 historical feature of California or the American West ~~and~~
8 *that* may be issued in a combination of numbers or letters,
9 or both, as requested by the applicant for the plates. Any
10 person described in Section 5101 may, upon payment of
11 the additional fees set forth in subdivision (b), apply for
12 and be issued a set of special interest license plates.

13 (b) In addition to the regular fees for an original
14 registration or renewal of registration, the following
15 additional fees shall be paid for the issuance, renewal,
16 retention, or transfer of the special interest license plates
17 authorized pursuant to this section:

18 (1) For the original issuance of the plates, fifty dollars
19 (\$50).

20 (2) For a renewal of registration of the plates, or the
21 retention of the plates if renewal is not required, forty
22 dollars (\$40).

23 (3) For transfer of the plates to another vehicle, fifteen
24 dollars (\$15).

25 (4) For each substitute replacement plate, thirty-five
26 dollars (\$35).

27 (5) In addition, for the issuance of an environmental
28 license plate, as defined in Section 5103, the additional
29 fees prescribed in Sections 5106 and 5108, which shall be
30 deposited in the Environmental License Plate Fund.

31 (c) Except as provided in paragraph (5) of subdivision
32 (b), all fees collected under this section shall, after
33 deduction of the department's costs in administering this
34 section, be deposited in the American Heritage Rodeo
35 Foundation License Plate Account, which is hereby
36 created in the General Fund. The funds in the account
37 shall be used by the American Heritage Rodeo
38 Foundation, upon appropriation by the Legislature, to
39 educate the public about the ethnic American West and



1 to preserve important cultural and historical artifacts and
2 features of California and the American West.

3 SEC. 120. Section 8200 of the Vehicle Code is
4 amended to read:

5 8200. "Registrant," for purposes of this article, means
6 any person issued apportioned fleet registration pursuant
7 to Article ~~5 (commencing with Section 8150)~~ 4
8 (*commencing with Section 8050*).

9 SEC. 121. Section 9252 of the Vehicle Code is
10 amended to read:

11 9252. (a) In addition to the registration fee specified
12 in Section 9250 and any weight fee, there shall be paid a
13 service fee of ten dollars (\$10) for the registration within
14 this state of every vehicle purchased new outside this
15 state or previously registered outside this state. If the
16 vehicle has been registered and operated in this state
17 during the same registration year in which application for
18 registration is made, a fee of six dollars (\$6) shall be paid.

19 (b) This section does not apply to vehicles registered
20 as fleet vehicles under Article ~~5 (commencing with~~
21 ~~Section 8150)~~ 4 (*commencing with Section 8050*) of
22 Chapter 4, except upon application for a certificate of
23 ownership.

24 SEC. 122. Section 11216.2 of the Vehicle Code is
25 amended to read:

26 11216.2. (a) Any license issued to the owner or
27 operator of a traffic violator school under this chapter
28 shall be automatically suspended for 30 days by the
29 department if the department has been notified that
30 more than one final determination has been made that
31 the traffic violator school has violated a student's rights
32 under the *federal* Americans with Disabilities Act of 1990
33 (42 U.S.C. Sec. 12101, et seq.) or any other federal or state
34 law prohibiting discrimination against individuals with
35 disabilities. The final determination shall be made by a
36 federal or state court of competent jurisdiction or an
37 appropriate federal or state administrative agency,
38 including, but not limited to, the Department of Fair
39 Employment and Housing, or any combination thereof.

40 ~~(b) For~~



1 For the purpose of this subdivision, “final
2 determination” means that no further appeal of a
3 determination can be taken to any court because the time
4 period for the appeal has expired.

5 (e)

6 (b) If ~~the~~ a traffic violator school subject to suspension
7 under this section is operated by a traffic school operator
8 licensed pursuant to Section 11202.5 who is operating
9 other traffic schools, the licenses of the owners of those
10 traffic schools operated by that traffic school operator
11 ~~shall~~ also shall be suspended for the 30-day period.

12 SEC. 123. Section 13378 of the Vehicle Code is
13 amended to read:

14 13378. (a) Any applicant for, or holder of, a tow truck
15 driver certificate who has received a notice of denial or
16 revocation, may, within 15 days of the mailing of the
17 notice, submit to the department a written request for a
18 hearing. Failure to request a hearing, in writing, within
19 15 days is a waiver of the right to a hearing.

20 (b) Upon receipt by the department of the hearing
21 request, the department may stay the action until a
22 hearing is conducted and the final decision is made by the
23 hearing officer. The department shall not stay the action
24 when there is reasonable cause to believe that the stay
25 would pose a threat to a member of the motoring public
26 who may require the services of the tow truck driver in
27 question.

28 (c) An applicant for, or a holder of, a tow truck driver
29 certificate, whose certificate has been denied or revoked,
30 is not entitled to a hearing whenever the action by the
31 department is made mandatory by this article or any
32 other applicable law or regulation.

33 (d) Upon receipt of a request for a hearing, and when
34 the requesting party is entitled to a hearing under this
35 article, the department shall appoint a hearing officer to
36 conduct a hearing in accordance with ~~Sections 14107,~~
37 ~~14109, 14110, and 14111~~ Section 14112.

38 SEC. 124. Section 17302 of the Vehicle Code is
39 amended to read:



1 17302. The driver, or the owner and driver, jointly, as
2 the case may be, are also liable for all damages ~~which~~ *that*
3 any highway or bridge sustains as the result of any
4 operation, driving, or moving of any vehicle ~~which~~ *that*
5 exceeds any of the limitations imposed by Division 15
6 (commencing with Section 35000), Chapter 1
7 (commencing with Section 29000) of Division 13, Section
8 21461 with respect to a sign erected under Section 35655,
9 and Sections 21712 and 23114 even though the vehicle is
10 exempted from the limitations by Section 35001, ~~35103,~~
11 35104, 35105, 35106, 35108, 35250, 35400, 35414, or 36615.

12 SEC. 125. Section 21114.5 of the Vehicle Code is
13 amended to read:

14 21114.5. Notwithstanding Section 21663 or any other
15 provision of this code, local authorities may, by ordinance,
16 authorize the operation of electric carts by physically
17 disabled persons, ~~or~~ *by* persons 50 years of age or older,
18 or, while in the course of their employment, by
19 employees of the United States Postal Service, state and
20 local governmental agencies, or utility companies, on
21 public sidewalks. Any ordinance shall, however, contain
22 provisions requiring any disabled person or person 50
23 years of age or older who owns or leases an electric cart
24 to apply to the local authority for a permit and an
25 identification sticker to so operate the cart, and requiring
26 the person to affix the sticker to the cart in order to
27 operate it on the sidewalk. The permit and sticker shall
28 become invalid if the person ceases to operate, own, or
29 lease the cart.

30 This section does not apply to ~~vehicles exempted from~~
31 ~~registration by devices described in subdivision (b) of~~
32 Section ~~4011~~ 415.

33 SEC. 126. Section 21663 of the Vehicle Code is
34 amended to read:

35 21663. Except as expressly permitted pursuant to this
36 code, including Sections 21100.4, ~~21114.5,~~ and ~~21114.6~~
37 ~~21114.5,~~ no person shall operate or move a motor vehicle
38 upon a sidewalk except as may be necessary to enter or
39 leave adjacent property.



1 SEC. 127. Section 22507.9 of the Vehicle Code is
2 amended to read:

3 22507.9. Local authorities may establish a special
4 enforcement unit for the sole purpose of providing
5 adequate enforcement of Section 22507.8 and local
6 ordinances and resolutions adopted pursuant to Section
7 22511.7.

8 Local authorities may establish recruitment and
9 employment guidelines ~~which~~ *that* encourage and enable
10 employment of qualified disabled persons in these special
11 enforcement units.

12 Members of the special enforcement unit may issue
13 notices of parking violation ~~pursuant to Section 41103~~ for
14 violations of Section 22507.8 and local ordinances adopted
15 pursuant to Section 22511.7. Members of the special
16 enforcement unit shall not be peace officers and shall not
17 make arrests in the course of their official duties, but shall
18 wear distinctive uniforms and badges while on duty. A
19 two-way radio unit, which may utilize police frequencies
20 or citizens' band, may be issued by the local authority to
21 each member of the special enforcement unit for use
22 while on duty.

23 The local authority may pay the cost of uniforms and
24 badges for the special enforcement unit, and may provide
25 daily cleaning of the uniforms. Additionally, the local
26 authority may provide motorized wheelchairs for use by
27 members of the special unit while on duty, including
28 batteries and necessary recharging thereof. Any
29 motorized wheelchair used by a member of the special
30 enforcement unit while on duty shall be equipped with
31 a single headlamp in the front and a single stoplamp in the
32 rear.

33 Members of the special enforcement unit may be paid
34 an hourly wage without the compensatory benefits
35 provided other permanent and temporary employees,
36 but shall be entitled to applicable workers' compensation
37 benefits as provided by law. Insurance provided by the
38 local authority for disability or liability of a member of the
39 special enforcement unit shall be the same as for other
40 employees performing similar duties.



1 Nothing in this section precludes a local authority from
2 using regular full-time employees to enforce this chapter
3 and ordinances adopted pursuant thereto.

4 This section applies to all counties and cities, including
5 every charter city and city and county.

6 SEC. 128. Section 22512 of the Vehicle Code is
7 amended to read:

8 22512. Except as otherwise indicated in subdivision
9 (b), none of the following provisions shall apply to the
10 driver or owner of any service vehicle owned or operated
11 by or for or operated under contract with a utility or
12 public utility, whether privately, municipally, or publicly
13 owned, used in the construction, operation, removal, or
14 repair of utility or public utility property or facilities, if
15 warning devices are displayed and when the vehicle is
16 stopped, standing, or parked at the site of work involving
17 the construction, operation, removal, or repair of the
18 utility or public utility property or facilities upon, in, over,
19 under, or adjacent to a highway, bicycle lane, bikeway, or
20 bicycle path or trail, or of a vehicle, whether privately,
21 municipally, or publicly owned, if warning devices are
22 displayed and when the vehicle is engaged in authorized
23 work on the highway, bicycle lane, bikeway, or bicycle
24 path or trail:

25 (a) Sections 21112, 21211, 21707, 21708, 22507.6, 24605,
26 25253, 25300, 27700, ~~27907, and 41102~~ and 27907.

27 (b) This chapter, except Sections 22507, 22509, ~~22511,~~
28 22515, and 22517.

29 (c) Chapter 10 (commencing with Section 22650).

30 SEC. 129. Section 22851.1 of the Vehicle Code is
31 amended to read:

32 22851.1. (a) If the vehicle is impounded pursuant to
33 subdivision (i) of Section 22651 and not released as
34 provided in that subdivision, the vehicle may be sold
35 pursuant to this chapter to satisfy the liens specified in
36 Section 22851 and in subdivision (b) of this section.

37 (b) A local authority impounding a vehicle pursuant to
38 subdivision (i) of Section 22651 shall have a lien
39 dependent upon possession by the keeper of the garage
40 for satisfaction of bail for all outstanding notices of



1 parking violation issued by the local authority for the
2 vehicle pursuant to subdivision (a) of Section 41103,
3 when the conditions specified in subdivision (c) have
4 been met. This lien shall be subordinate in priority to the
5 lien established by Section 22851, and the proceeds of any
6 sale shall be applied accordingly. Consistent with this
7 order of priority, the term “lien,” as used in this article
8 and in Chapter 6.5 (commencing with Section 3067) of
9 Title 14 of Part 4 of Division 3 of the Civil Code, includes
10 a lien imposed by this subdivision. In any action brought
11 to perfect the lien, where required by subdivision (d) of
12 Section 22851.8 of this code, or by subdivision (d) of
13 Section 3071 or subdivision (d) of Section 3072 of the Civil
14 Code, it shall be a defense to the recovery of bail that the
15 owner of the vehicle at the time of impoundment was not
16 the owner of the vehicle at the time of the parking
17 offense.

18 (c) A lien shall exist for bail with respect to parking
19 violations for which no person has answered the charge
20 in the notice of parking violation given, or filed an
21 affidavit of nonownership pursuant to and within the
22 time specified in subdivision (b) of Section 41103.

23 SEC. 130. Section 23197 of the Vehicle Code is
24 amended to read:

25 23197. (a) Except as provided in subdivision (c), an
26 order to pay any fine, restitution, or assessment, imposed
27 as a condition of the grant of probation or as part of a
28 judgment of conditional sentence for a violation of
29 Section 23152 or 23153, may be enforced in the same
30 manner provided for the enforcement of money
31 judgments.

32 (b) A ~~willful~~ *willful* failure to pay any fine, restitution,
33 or assessment during the term of probation, is a violation
34 of the terms and conditions of probation.

35 (c) If an order to pay a fine as a condition of probation
36 is stayed, a writ of execution shall not be issued, and any
37 failure to pay the fine is not willful, until the stay is
38 removed.

39 SEC. 131. Section 23203 of the Vehicle Code is
40 amended to read:



1 23203. (a) If a person's privilege to operate a motor
2 vehicle is restricted by a court pursuant to this article, the
3 court shall clearly mark the restriction and the dates of
4 the restriction on each of that person's operator's licenses
5 and promptly notify the Department of Motor Vehicles
6 of the terms of the restriction in a manner prescribed by
7 the department. The department shall place that
8 restriction on the person's records in the department and
9 enter the restriction on any license subsequently issued
10 by the department to that person during the period of the
11 restriction.

12 (b) If the court removes a restriction before the end
13 of the previously specified term ~~pursuant to Section~~
14 ~~23168~~, the court shall so mark the person's operator's
15 license in a manner prescribed by the department and
16 promptly notify the department of the removal of the
17 restriction.

18 (c) If a person is placed on probation pursuant to this
19 article, the court shall promptly notify the Department of
20 Motor Vehicles of the probation and probationary term
21 and conditions in a manner prescribed by the
22 department. The department shall place the fact of
23 probation and the probationary term and conditions on
24 the person's records in the department.

25 SEC. 132. Section 25110 of the Vehicle Code is
26 amended to read:

27 25110. (a) The following vehicles may be equipped
28 with utility flood or loading lamps mounted on the rear,
29 and sides, ~~which~~ *that* project a white light illuminating an
30 area to the side or rear of the vehicle for a distance not to
31 exceed 75 feet at the level of the roadway:

32 (1) Tow trucks ~~which~~ *that* are used to tow disabled
33 vehicles may display utility floodlights, but only during
34 the period of preparation for towing at the location from
35 which a disabled vehicle is to be towed.

36 (2) Ambulances used to respond to emergency calls
37 may display utility flood and loading lights, but only at the
38 scene of an emergency or while loading or unloading
39 patients.



1 (3) Firefighting equipment designed and operated
2 exclusively as such may display utility floodlamps only at
3 the scene of an emergency.

4 (4) Vehicles used by law enforcement agencies or
5 organizations engaged in the detoxification of alcoholics
6 may display utility flood or loading lights when loading or
7 unloading persons under the influence of intoxicants for
8 transportation to detoxification centers or places of
9 incarceration.

10 (5) Vehicles used by law enforcement agencies for
11 mobile blood alcohol testing, drug evaluation, or field
12 sobriety testing ~~in the enforcement of Sections 23101,~~
13 ~~23102, 23105, and 23106.~~

14 (6) Vehicles used by publicly or privately owned
15 public utilities may display utility flood or loading lights
16 when engaged in emergency roadside repair of electric,
17 gas, telephone, telegraph, water, or sewer facilities.

18 (b) Lamps permitted under subdivision (a) shall not
19 be lighted during darkness, except while the vehicle is
20 parked, nor project any glaring light into the eyes of an
21 approaching driver.

22 SEC. 133. Section 25802 of the Vehicle Code is
23 amended to read:

24 25802. ~~The provisions of Sections 24002, 24005, 24012,~~
25 ~~24250, 24251, 24400 through to 24404, inclusive, 24600~~
26 ~~through to 24604, inclusive, 24606 through to 24610,~~
27 ~~inclusive, 24012, Articles Article 4 (commencing with~~
28 ~~Section 24800), Article 5 (commencing with Section~~
29 ~~24950), Article 6 (commencing with Section 25100),~~
30 ~~Article 9 (commencing with Section 25350), Article 11~~
31 ~~(commencing with Section 25450), and Article 13~~
32 ~~(commencing with Sections 24800, 24950, 25100, 25350,~~
33 ~~25450, and Section 25650, respectively) of Chapter 2 of~~
34 ~~this division, Chapters Chapter 3 (commencing with~~
35 ~~Section 26301), Chapter 4 (commencing with Section~~
36 ~~26700), and Chapter 5 (commencing with Sections 26301,~~
37 ~~26700 and Section 27000, respectively) of this division, and~~
38 ~~the provisions of Chapters Chapter 2 (commencing with~~
39 ~~Section 29200), Chapter 3 (commencing with Section~~
40 ~~29800), Chapter 4 (commencing with Section 30800), and~~



1 Chapter 5; (commencing with Sections ~~29200, 29800,~~
2 ~~30800, and 31300, respectively~~ Section 31301) of Division
3 13 shall do not apply to logging vehicles or any vehicle of
4 a type subject to registration under this code ~~which that~~
5 is not designed, used, or maintained for the transportation
6 of persons or property and ~~which that~~ is ~~only incidentally~~
7 operated or moved over a highway *only incidentally*; but
8 any such vehicle shall be subject to ~~the provisions of~~
9 Sections 2800, 2806, 24004, 25260, 25803, 25950, 25952,
10 26457, 27454, 27602, 31500, and 40150, and to Article 12
11 (commencing with Section 25500) of Chapter 2 of this
12 division.

13 SEC. 134. Section 27207 of the Vehicle Code is
14 amended to read:

15 ~~27207. Notwithstanding the provisions of Section~~
16 ~~27205, no~~ No motor vehicle with a gross vehicle weight
17 rating of more than 10,000 pounds and equipped with an
18 engine speed governor shall produce a sound level
19 exceeding 88 dbA, measured on an open site at a distance
20 of 50 feet from the longitudinal centerline of the vehicle,
21 when its engine is accelerated from idle with wide open
22 throttle to governed speed with the vehicle stationary,
23 transmission in neutral, and clutch, if any, engaged. Test
24 procedures for compliance with this section shall be
25 established by the department, taking into consideration
26 the procedures of the United States Department of
27 Transportation. ~~Such~~ The procedures may provide for
28 measuring at other distances, in which case the
29 measurement shall be corrected so as to provide for
30 measurements equivalent to the noise limit established
31 by this section measured at 50 feet.

32 SEC. 135. Section 32050 of the Vehicle Code is
33 amended to read:

34 32050. (a) Prior to the transport of anhydrous
35 hydrazine, methylhydrazine, dimethylhydrazine,
36 Aerozine 50, fuming nitric acid, liquid ~~fluorine~~ *fluorine*,
37 or nitrogen tetroxide in bulk packaging, except when that
38 packaging contains only residue, outside the confines of
39 a facility where that material was used or stored, or prior
40 to the delivery of that bulk material to a carrier for



1 transport, each carrier shall provide advance notification,
2 in writing, of the shipment, to the department, which, in
3 turn, shall notify the sheriff of each county and police
4 chief of each city in which is located the proposed route.
5 Notification shall be made through the Department of
6 Justice's California Law Enforcement
7 Telecommunications System. The sheriffs and police
8 chiefs shall, in turn, make timely notification to the fire
9 chiefs within their respective jurisdictions through a
10 mutually agreed upon communications system.

11 (b) Subdivision (a) applies only to the extent that it
12 does not conflict with federal law.

13 (c) For the purposes of this section, *the following*
14 *definitions apply:*

15 (1) "Bulk packaging" has the same meaning as defined
16 in Section 171.8 of Title 49 of the Code of Federal
17 Regulations.

18 (2) "Fire chief" means the fire chief of each county
19 and city fire department and the fire chief of each fire
20 protection district serving a population greater than
21 15,000 in which is located the proposed route. This
22 paragraph does not apply to any fire chief of a fire
23 department or fire protection district ~~which~~ *that* is
24 composed of 50 percent or more volunteer firefighters.

25 (3) "Residue" has the same meaning as defined in
26 Section 171.8 of Title 49 of the Code of Federal
27 Regulations.

28 SEC. 136. Section 33002 of the Vehicle Code is
29 amended to read:

30 33002. (a) Prior to the transport of any hazardous
31 radioactive materials containing cargoes of commercially
32 produced, spent radioactive fuel outside the confines of
33 a facility where that material was used or stored, or prior
34 to the delivery of these materials to a carrier for transport,
35 each carrier shall provide advance notification, in
36 writing, of the shipment to the Department of the
37 California Highway Patrol, which, in turn, shall notify all
38 of the following persons:

39 (1) The fire chiefs of each city and county fire
40 department and the fire chiefs of each fire protection



1 district serving a population greater than 15,000, which
2 city, county, or fire protection district is located along the
3 proposed route. The Department of the California
4 Highway Patrol, however, shall ~~only~~ notify *only* those fire
5 chiefs ~~which~~ *who* have requested, in writing, to be so
6 notified. A fire chief may revoke this request, in writing,
7 at any time.

8 This paragraph ~~shall~~ *does* not apply to any fire chief of
9 a fire department or fire protection district ~~which~~ *that* is
10 composed of 50 percent or more volunteer firefighters.

11 (2) The police chiefs of each city where surface
12 transportation would occur along the proposed route.

13 (b) Subdivision (a) ~~shall apply~~ *applies* only to the
14 extent that it does not conflict with federal law.

15 (c) Each advance notification shall contain the
16 following information:

17 (1) The name, address, and telephone number of the
18 shipper, carrier, and receiver of the shipment.

19 (2) If the shipment ~~is originating~~ *originates* within
20 California, the point of origin of the shipment and the
21 48-hour period during which departure of the shipment
22 is estimated to occur, the destination of the shipment
23 ~~within California~~ *California*, and the 48-hour period
24 during which the shipment is estimated to arrive.

25 (3) If the shipment ~~is originating~~ *originates* outside of
26 California, the point of origin of the shipment and the
27 48-hour period during which the shipment is estimated to
28 arrive at state boundaries, the destination of the shipment
29 within California, and the 48-hour period during which
30 the shipment is estimated to arrive.

31 (4) A telephone number and address for current
32 shipment information.

33 (d) The Department of the California Highway Patrol
34 shall design a standard notification form to include all of
35 the information specified in subdivision (c) and shall
36 make these forms available by April 1, 1984.

37 (e) The notification is required to reach the
38 Department of the California Highway Patrol at least 72
39 hours before the beginning of the 48-hour period during
40 which departure of the shipment is estimated to occur,



1 and the Department of the California Highway Patrol
2 shall notify the fire chiefs who have requested notification
3 and the police chiefs specified in subdivision (a) at least
4 36 hours before the beginning of this 48-hour period. A
5 copy of the notification shall be retained by the
6 Department of the California Highway Patrol for three
7 years.

8 (f) The carrier shall also notify, by telephone or
9 telegram, the Department of the California Highway
10 Patrol if there are any changes in the scheduling of a
11 shipment, in the routes to be used for a shipment, or any
12 cancellation of a shipment. The Department of the
13 California Highway Patrol shall, in turn, notify the fire
14 chiefs who have requested notification and the police
15 chiefs specified in subdivision (a) ~~that~~ *who* would be
16 affected by these changes in the scheduling of a shipment,
17 in the routes to be used for a shipment, or the cancellation
18 of a shipment. The Department of the California
19 Highway Patrol shall maintain for three years a record of
20 each telegram and telephonic notification.

21 (g) Any person or agency that receives any
22 information pursuant to this section shall not disseminate
23 or reveal this information to any other person, state
24 agency, city, county, or local agency unless the person or
25 agency determines that disseminating or revealing this
26 information is necessary to protect the public health and
27 safety or the environment.

28 (h) The Governor shall appoint the fire chiefs eligible
29 to request notification, as specified in paragraph (1) of
30 subdivision (a), as the designated representatives of the
31 Governor pursuant to paragraph (1) of subsection (c) of
32 Section 73.21 of Title 10 of the Code of Federal
33 Regulations for the purpose of receiving information
34 classified as safeguards information pursuant to Part 73 of
35 Title 10 of the Code of Federal Regulations.

36 (i) Any carrier who violates this section, in addition to
37 any penalty provided by law, is subject to a civil penalty
38 of not more than five hundred dollars (\$500) for each
39 violation. For purposes of this section, each day of a
40 continuing violation is a separate and distinct violation.



1 When establishing the amount of civil liability pursuant
2 to this subdivision, the court shall consider, in addition to
3 other relevant circumstances, the following:

- 4 (1) The extent of the harm caused by the violation.
- 5 (2) The persistence of the violation.
- 6 (3) The number of prior violations by the same
7 violator.
- 8 (4) The deterrent value of the penalty based on the
9 financial resources of the violator.

10 SEC. 137. Section 35782 of the Vehicle Code is
11 amended to read:

12 35782. (a) The Department of Transportation or a
13 local authority may issue or withhold the permit at its
14 discretion, or, if the permit is issued, do any of the
15 following when necessary to protect against injury to the
16 road, foundations, surfaces, or structures:

- 17 (1) Limit the number of trips.
- 18 (2) Establish seasonal or other time limitations within
19 which the vehicle or vehicles described may be operated
20 on the highways indicated.
- 21 (3) Otherwise limit or prescribe conditions of
22 operation of the vehicle.

23 (b) The Department of Transportation or a local
24 authority may not require the posting of a bond as a
25 condition of the issuance of a permit, except that a
26 requirement of extra insurance or other financial security
27 may be imposed as a condition for a permit for unusually
28 large or heavy loads ~~which~~ *that* pose a substantial risk to
29 public facilities.

30 (c) Except as provided in subdivision (b), the
31 Department of Transportation or a local authority may
32 not require proof of financial responsibility in an amount
33 greater than that required for compliance with Section
34 16500.5 as a condition of the permit, and shall accept
35 evidence of financial responsibility ~~which~~ *that* complies
36 with Section ~~16028~~ 16020.

37 SEC. 138. Section 35790 of the Vehicle Code is
38 amended to read:

39 35790. (a) The Department of Transportation or
40 local authorities with respect to highways under their



1 respective jurisdictions may, upon application in writing
2 and if good cause appears, issue a special or annual permit
3 in writing authorizing the applicant to move any
4 manufactured home in excess of the maximum width but
5 not exceeding 14 feet in total width, exclusive of lights and
6 devices provided for in Sections 35109, ~~35110, and 35112~~
7 *and 35110*, upon any highway under the jurisdiction of the
8 party granting the permit.

9 (b) A public agency, in the exercise of its discretion in
10 granting permits for the movement of overwidth
11 manufactured homes, and in considering the individual
12 circumstances of each case, may use merchandising or
13 relocation of residence as a basis for movement for good
14 cause.

15 (c) (1) The application for a special permit shall
16 specifically describe the manufactured home to be
17 moved and the particular highways over which the
18 permit to operate is requested.

19 (2) The application for an annual permit shall
20 specifically describe the power unit to be used to tow the
21 overwidth manufactured homes and the particular
22 highways over which the permit to operate is requested.
23 The annual permit shall be subject to all of the conditions
24 of this section and any additional conditions imposed by
25 the public agency.

26 (d) The Department of Transportation or local
27 authority may establish seasonal or other time limitations
28 within which a manufactured home may be moved on the
29 highways indicated, and may require an undertaking or
30 other security as it deems necessary to protect the
31 highways and bridges from injury or to provide
32 indemnity for any injury resulting from the operation.

33 (e) Permits for the movement of manufactured homes
34 under this section shall not be issued except to
35 transporters or licensed manufacturers and dealers and
36 only under the following conditions:

37 (1) The manufactured home for which the permit is
38 issued shall comply with Sections 35550 and 35551.

39 (2) In the case of a permit issued on an individual or
40 repetitive trip basis, the applicant has first received the



1 approval of a city or county if the trip will include
 2 movement on streets or highways under the jurisdiction
 3 of the city or county. The application for such a permit
 4 shall indicate the complete route of the proposed move
 5 and shall specify all cities and counties ~~which~~ *that* have
 6 approved the move. This paragraph shall not be
 7 construed to require the Department of Transportation
 8 to verify the information provided by an applicant with
 9 respect to movement on streets or highways under local
 10 jurisdiction.

11 (3) It is a violation of any permit, which is issued by the
 12 Department of Transportation and ~~which~~ authorizes a
 13 move only on a state highway, for that move to be
 14 extended to a street or highway under the jurisdiction of
 15 a city or county unless the move has been approved by the
 16 city or county.

17 (f) The Department of Transportation, in cooperation
 18 with the Department of the California Highway Patrol,
 19 or the local authority may establish additional reasonable
 20 permit regulations as they may deem necessary in the
 21 interest of public safety, which regulations shall be
 22 consistent with this section.

23 (g) Every permit, the consent form or forms as
 24 required by Section 18099.5 of the Health and Safety
 25 Code, and a copy of the tax clearance certificate,
 26 certificate of origin, or dealer's notice of transfer, when
 27 ~~such~~ *the* certificate or notice is required to be issued, shall
 28 be carried in the manufactured home or power unit to
 29 which it refers and shall be open to inspection by any
 30 peace officer or traffic officer, any authorized agent of the
 31 Department of Transportation, or any other officer or
 32 employee charged with the care and protection of the
 33 highways.

34 (h) It is unlawful for any person to violate any of the
 35 terms or conditions of any permit.

36 SEC. 139. Section 36505 of the Vehicle Code is
 37 amended to read:

38 36505. Farm tractors as defined in Section 36015, and
 39 trailers displaying an identification plate, as provided for
 40 in Section ~~36125~~ *36115 or 36130*, when operated during



1 darkness shall not be exempted from the provisions of
2 Sections 24400 and 25100.

3 SEC. 140. Section 38010 of the Vehicle Code is
4 amended to read:

5 38010. (a) Except as otherwise provided in
6 subdivision (b), every motor vehicle specified in Section
7 38012, ~~which~~ *that* is not registered under this code
8 because it is to be operated or used exclusively off the
9 highways, except as provided in this division, shall be
10 issued and display an identification plate or device issued
11 by the department.

12 (b) ~~The provisions of subdivision~~ *Subdivision* (a) ~~shall~~
13 *does* not apply to any of the following:

14 (1) Motor vehicles specifically exempted from
15 registration under this code, including, but not limited to,
16 motor vehicles exempted pursuant to Sections 4006, 4010,
17 ~~4011~~, 4012, 4013, 4015, 4018, and 4019.

18 (2) Implements of husbandry.

19 (3) Motor vehicles owned by the state, or any county,
20 city, district, or political subdivision of the state, or the
21 United States.

22 (4) Motor vehicles owned or operated by, or operated
23 under contract with a utility, whether privately or
24 publicly owned, when used as specified in Section 22512.

25 (5) Special construction equipment described in
26 Section 565, regardless of whether ~~such~~ *the* motor
27 vehicles are used in connection with highway or railroad
28 work.

29 (6) A motor vehicle owned or operated by a
30 nonresident of this state, whether or not ~~such~~ *the* vehicle
31 is identified or registered in a foreign jurisdiction. For the
32 purposes of this paragraph, a person who holds a valid
33 driver's license issued by a foreign jurisdiction shall be
34 presumed to be such a nonresident.

35 (7) Commercial vehicles weighing more than 6,000
36 pounds unladen.

37 (8) Any motorcycle manufactured in the year 1942 or
38 prior ~~thereto~~ *to that year*.

39 (9) Four-wheeled motor vehicles operated solely in
40 organized racing or competitive events upon a closed



1 course when ~~such~~ *those* events are conducted under the
2 auspices of a recognized sanctioning body or by permit
3 issued by the local governmental authority having
4 jurisdiction.

5 SEC. 141. Section 38080 of the Vehicle Code is
6 amended to read:

7 38080. (a) The department may authorize, under ~~the~~
8 ~~provisions of Sections 4456 and 4456.5~~ *Section 4456*,
9 dealers licensed under Article 1 (commencing with
10 Section 11700) of Chapter 4 of Division 5 to use numbered
11 copies of the ~~report of sale~~ *report-of-sale* form and
12 corresponding temporary identification devices upon
13 off-highway motor vehicles subject to identification
14 ~~which~~ *that* they sell.

15 (b) Off-highway motor vehicles subject to
16 identification that are purchased from dealers not
17 required to be licensed under Article 1 (commencing
18 with Section 11700) of Chapter 4 of Division 5, or that are
19 specially constructed by the owner or owners, may be
20 operated off-highway, as provided by this division,
21 without an identification plate or device or identification
22 certificate, provided a receipt or other suitable device
23 issued by the department is displayed upon the vehicle
24 evidencing an application has been made and
25 appropriate fees paid pursuant to this division, until the
26 identification plate or device and identification
27 certificate are received from the department.

28 SEC. 142. Section 40000.7 of the Vehicle Code is
29 amended to read:

30 40000.7. A violation of any of the following provisions
31 is a misdemeanor, and not an infraction:

32 (a) Section 2416, relating to regulations for emergency
33 vehicles.

34 (b) Section 2800, relating to failure to obey an officer's
35 lawful order or submit to a lawful inspection.

36 (c) Section 2800.1, relating to fleeing from a peace
37 officer.

38 (d) Section 2801, relating to failure to obey a
39 firefighter's lawful order.

40 (e) Section 2803, relating to unlawful vehicle or load.



- 1 (f) Section 2813, relating to stopping for inspection.
- 2 (g) Subdivisions (b) and (c) of Section 4461 and
- 3 subdivisions (b) and (c) of Section 4463, relating to
- 4 disabled person placards.
- 5 (h) Section 4462.5, relating to deceptive or false
- 6 evidence of vehicle registration.
- 7 (i) Section 4463.5, relating to deceptive or facsimile
- 8 license plates.
- 9 ~~(j) Section 5105.5, relating to environmental license~~
- 10 ~~plates.~~
- 11 ~~(k) Section 5500, relating to the surrender of~~
- 12 ~~registration documents and license plates before~~
- 13 ~~dismantling may begin.~~
- 14 ~~(l)~~
- 15 (k) Section 5753, relating to delivery of certificates of
- 16 ownership and registration when committed by a dealer
- 17 or any person while a dealer within the preceding 12
- 18 months.
- 19 ~~(m)~~
- 20 (l) Section 5901, relating to dealers and lessor-retailers
- 21 giving notice.
- 22 ~~(n)~~
- 23 (m) Section 5901.1, relating to lessors giving notice
- 24 and failure to pay fee.
- 25 ~~(o)~~
- 26 (n) Section 8802, relating to the return of canceled,
- 27 suspended, or revoked certificates of ownership,
- 28 registration cards, or license plates, when committed by
- 29 any person with intent to defraud.
- 30 ~~(p)~~
- 31 (o) Section 8803, relating to return of canceled,
- 32 suspended, or revoked documents and license plates of a
- 33 dealer, manufacturer, remanufacturer, transporter,
- 34 dismantler, or salesman.
- 35 SEC. 143. Section 40513 of the Vehicle Code is
- 36 amended to read:
- 37 40513. (a) Whenever written notice to appear has
- 38 been prepared, delivered, and filed with the court, ~~or~~
- 39 ~~whenever notice has been given pursuant to the~~
- 40 ~~provisions of Section 41102, an exact and legible duplicate~~



1 copy of the notice when filed with the magistrate, in lieu
 2 of a verified complaint, shall constitute a complaint to
 3 which the defendant may plead “guilty” or “nolo
 4 contendere.”

5 If, however, the defendant violates his promise to
 6 appear in court or does not deposit lawful bail, or pleads
 7 other than “guilty” or “nolo contendere” to the offense
 8 charged, a complaint shall be filed which shall conform to
 9 the provisions of Chapter 2 (commencing with Section
 10 948) of Title 5, Part 2 of the Penal Code, and which shall
 11 be deemed to be an original complaint, and thereafter
 12 proceedings shall be had as provided by law, except that
 13 a defendant may, by an agreement in writing, subscribed
 14 by him and filed with the court, waive the filing of a
 15 verified complaint and elect that the prosecution may
 16 proceed upon a written notice to appear.

17 (b) Notwithstanding ~~the provisions of~~ subdivision (a)
 18 ~~of this section~~, whenever the written notice to appear has
 19 been prepared on a form approved by the Judicial
 20 Council, an exact and legible duplicate copy of the notice
 21 when filed with the magistrate shall constitute a
 22 complaint to which the defendant may enter a plea and,
 23 if the notice to appear is verified, upon which a warrant
 24 may be issued. If the notice to appear is not verified, the
 25 defendant may, at the time of arraignment, request that
 26 a verified complaint be filed.

27 SEC. 144. Section 40802 of the Vehicle Code, as
 28 amended by Section 1 of Chapter 315 of the Statutes of
 29 1995, is amended to read:

30 40802. (a) A “speed trap” is either of the following:

31 ~~(a)~~

32 (1) A particular section of a highway measured as to
 33 distance and with boundaries marked, designated, or
 34 otherwise determined in order that the speed of a vehicle
 35 may be calculated by securing the time it takes the
 36 vehicle to travel the known distance.

37 ~~(b)~~

38 (2) A particular section of a highway with a prima facie
 39 speed limit provided by this code or by local ordinance
 40 pursuant to paragraph (1) of subdivision (b) of Section



1 22352, or established pursuant to Section 22354, 22357,
2 22358, or 22358.3, which speed limit is not justified by an
3 engineering and traffic survey conducted within five
4 years prior to the date of the alleged violation, and where
5 enforcement involves the use of radar or other electronic
6 devices ~~which~~ *that* measure the speed of moving objects.

7 ~~(e) Subdivision (b)~~

8 *This paragraph* does not apply to *either* of the
9 following:

10 ~~(1)~~

11 (A) Local streets and roads, as defined in subdivision
12 ~~(1)~~ (b).

13 ~~(2)~~

14 (B) Chase Avenue in the City of El Cajon.

15 ~~(1)~~

16 (b) For purposes of this section, local streets and roads
17 shall be defined by the latest functional usage and
18 federal-aid system maps as submitted to the Federal
19 Highway Administration. When these maps have not
20 been submitted, the following definition shall be used: A
21 local street or road primarily provides access to abutting
22 residential property and ~~shall meet~~ *meets* the following
23 three conditions:

24 (1) Roadway width of not more than 40 feet.

25 (2) Not more than one-half mile of uninterrupted
26 length. Interruptions ~~shall~~ include official traffic control
27 devices as defined in Section 445.

28 (3) Not more than one traffic lane in each direction.

29 ~~(e)~~

30 (c) This section shall remain in effect only until
31 January 1, 1999, and as of that date is repealed, unless a
32 later enacted statute, that is enacted on or before January
33 1, 1999, deletes or extends that date.

34 SEC. 145. Section 40802 of the Vehicle Code, as added
35 by Section 2 of Chapter 315 of the Statutes of 1995, is
36 amended to read:

37 40802. (a) A “speed trap” is either of the following:

38 ~~(1)~~

39 (1) A particular section of a highway measured as to
40 distance and with boundaries marked, designated, or



1 otherwise determined in order that the speed of a vehicle
2 may be calculated by securing the time it takes the
3 vehicle to travel the known distance.

4 ~~(b)~~

5 (2) A particular section of a highway with a prima facie
6 speed limit provided by this code or by local ordinance
7 pursuant to paragraph (1) of subdivision (b) of Section
8 22352, or established pursuant to Section 22354, 22357,
9 22358, or 22358.3, which speed limit is not justified by an
10 engineering and traffic survey conducted within five
11 years prior to the date of the alleged violation, and where
12 enforcement involves the use of radar or other electronic
13 devices ~~which~~ *that* measure the speed of moving objects.
14 This ~~subdivision~~ *paragraph* does not apply to local streets
15 and roads.

16 (b) For purposes of this section, local streets and roads
17 shall be defined by the latest functional usage and
18 federal-aid system maps as submitted to the Federal
19 Highway Administration. When these maps have not
20 been submitted, the following definition shall be used: A
21 local street or road primarily provides access to abutting
22 residential property and shall meet the following three
23 conditions:

- 24 (1) Roadway width of not more than 40 feet.
- 25 (2) Not more than one-half mile of uninterrupted
26 length. Interruptions shall include official traffic control
27 devices as defined in Section 445.
- 28 (3) Not more than one traffic lane in each direction.

29 (c) This section shall become operative on January 1,
30 1999.

31 SEC. 146. Section 40802.5 of the Vehicle Code is
32 amended to read:

33 40802.5. (a) The City Council of the City of Santee
34 may authorize, by majority vote, the use of radar for
35 enforcement of speed limits on Mast Boulevard in that
36 city. Notwithstanding *paragraph (2) of* subdivision ~~(b)~~
37 *(a)* of Section 40802, that use of radar does not constitute
38 a speed trap for the purposes of this article.



1 (b) The City of Santee shall make all efforts to
2 facilitate and expedite the traffic flow on Mast Boulevard
3 in that city.

4 (c) This section shall remain in effect only until
5 January 1, 1999, and as of that date is repealed, unless a
6 later enacted statute, that is enacted on or before January
7 1, 1999, deletes or extends that date.

8 SEC. 147. Section 40803 of the Vehicle Code is
9 amended to read:

10 40803. (a) No evidence as to the speed of a vehicle
11 upon a highway shall be admitted in any court upon the
12 trial of any person in any prosecution under this code
13 upon a charge involving the speed of a vehicle when the
14 evidence is based upon or obtained from or by the
15 maintenance or use of a speedtrap.

16 (b) In any prosecution under this code of a charge
17 involving the speed of a vehicle, where enforcement
18 involves the use of radar or other electronic devices
19 which measure the speed of moving objects, the
20 prosecution shall establish, as part of its prima facie case,
21 that the evidence or testimony presented is not based
22 upon a speedtrap as defined in *paragraph (2) of*
23 *subdivision (b) (a) of Section 40802.*

24 (c) When a traffic and engineering survey is required
25 pursuant to *paragraph (2) of subdivision (b)—(a) of*
26 *Section 40802*, evidence that a traffic and engineering
27 survey has been conducted within five years of the date
28 of the alleged violation or evidence that the offense was
29 committed on a local street or road as defined in
30 *paragraph (2) of subdivision (b) (a) of Section 40802* shall
31 constitute a prima facie case that the evidence or
32 testimony is not based upon a speedtrap as defined in
33 *paragraph (2) of subdivision (b) (a) of Section 40802.*

34 SEC. 148. Section 40901 of the Vehicle Code is
35 amended to read:

36 40901. (a) A court, pursuant to this section, may by
37 rule provide for the trial of any alleged infraction
38 involving a violation of this code or any local ordinance
39 adopted pursuant to this code.



1 (b) The rules governing ~~such~~ *the* trials may provide
2 for testimony and other relevant evidence to be
3 introduced in the form of a notice to appear issued
4 pursuant to Section 40500, ~~a notice of violation issued~~
5 ~~pursuant to Section 41103~~, and, notwithstanding Division
6 10 (commencing with Section 1200) of the Evidence
7 Code, a business record or receipt.

8 (c) Prior to the entry of a waiver of constitutional right
9 pursuant to any rules adopted under this section, the
10 court shall inform the defendant in writing of the nature
11 of the proceedings and of his *or her* right to confront and
12 cross-examine witnesses, to subpoena witnesses on his *or*
13 *her* behalf, and to hire counsel at his *or her* own expense.
14 The court shall ascertain that the defendant knowingly
15 and voluntarily waives his *or her* right to be confronted
16 by the witnesses against him *or her*, to subpoena witnesses
17 in his *or her* behalf, and to hire counsel on his *or her* behalf
18 before proceeding.

19 (d) In any jurisdiction with a non-English speaking
20 population exceeding 5 percent of the total population of
21 the jurisdiction in any one language, a written
22 explanation of the procedures and rights under this
23 section shall be available in that language.

24 (e) Except as set forth above, nothing contained
25 herein shall be interpreted to permit the submission of
26 evidence other than in accordance with the law, nor to
27 prevent courts from adopting other rules to provide for
28 trials in accordance with the law.

29 SEC. 149. Section 42003 of the Vehicle Code is
30 amended to read:

31 42003. (a) A judgment that a person convicted of an
32 infraction be punished by a fine may also provide for the
33 payment to be made within a specified time or in
34 specified installments. A judgment granting a defendant
35 time to pay the fine shall order that, if the defendant fails
36 to pay the fine or any installment thereof on the date that
37 it is due, he or she shall appear in court on that date for
38 further proceedings. Willful violation of the order is
39 punishable as contempt.



1 (b) A judgment that a person convicted of any other
2 violation of this code be punished by a fine may also order,
3 adjudge, and decree that the person be imprisoned until
4 the fine is satisfied. In all of these cases, the judgment shall
5 specify the extent of the imprisonment, which shall not
6 exceed one day for every thirty dollars (\$30) of the fine,
7 nor extend in this case beyond the term for which the
8 defendant might be sentenced to imprisonment for the
9 offense of which he or she was convicted.

10 (c) In any case when a person appears before a traffic
11 referee or judge of the municipal court or superior court
12 for adjudication of a violation of this code, the court, upon
13 request of the defendant, shall take into account any
14 amount that the defendant is ordered to pay in fines,
15 assessments, and restitution, and shall make a
16 determination of the ability of the defendant to pay all or
17 a portion of the reasonable cost of probation, fines, and
18 restitution, or any combination thereof, and of
19 conducting the presentence investigation and preparing
20 the presentence report made pursuant to Section 1203 of
21 *the Penal Code*, if applicable. The reasonable cost of these
22 services and of probation shall not exceed the amount
23 determined to be the actual average cost thereof. The
24 court shall order the defendant to appear before a county
25 officer designated by the court to make an inquiry into
26 the ability of the defendant to pay all or a portion of those
27 costs or the court or traffic referee may make this
28 determination at a hearing. At that hearing, the
29 defendant shall be entitled to have, but shall not be
30 limited to, the opportunity to be heard in person, to
31 present witnesses and other documentary evidence, to
32 confront and cross-examine adverse witnesses, to
33 disclosure of the evidence against him or her, and to a
34 written statement of the findings of the court or the
35 county officer. If the court determines that the defendant
36 has the ability to pay all or part of the costs, the court shall
37 set the amount to be reimbursed and order the defendant
38 to pay that sum to the county in the manner in which the
39 court believes reasonable and compatible with the
40 defendant's financial ability; or, with the consent of a



1 defendant who is placed on probation, the court shall
2 order the probation officer to set the amount of payment,
3 which shall not exceed the maximum amount set by the
4 court, and the manner in which the payment shall be
5 made to the county. In making a determination of
6 whether a defendant has the ability to pay, the court shall
7 take into account the amount of any fine imposed upon
8 the defendant and any amount the defendant has been
9 ordered to pay in restitution.

10 The court may hold additional hearings during the
11 probationary period. If practicable, the court or the
12 probation officer shall order payments to be made on a
13 monthly basis. Execution may be issued on the order in
14 the same manner as a judgment in a civil action. The
15 order to pay all or part of the costs shall not be enforced
16 by contempt.

17 A payment schedule for reimbursement of the costs of
18 presentence investigation based on income shall be
19 developed by the probation department of each county
20 and approved by the presiding judges of the municipal
21 and superior courts.

22 (d) The term “ability to pay” means the overall
23 capability of the defendant to reimburse the costs, or a
24 portion of the costs, of conducting the presentence
25 investigation, preparing the presentence report, and
26 probation, and includes, but is not limited to, all of the
27 following regarding the defendant:

28 (1) Present financial position.

29 (2) Reasonably discernible future financial position. In
30 no event shall the court consider a period of more than
31 six months from the date of the hearing for purposes of
32 determining reasonably discernible future financial
33 position.

34 (3) Likelihood that the defendant will be able to
35 obtain employment within the six-month period from the
36 date of the hearing.

37 (4) Any other factors that may bear upon the
38 defendant’s financial capability to reimburse the county
39 for the costs.



1 (e) At any time during the pendency of the judgment
2 rendered according to the terms of this section, a
3 defendant against whom a judgment has been rendered
4 may petition the rendering court to modify or vacate its
5 previous judgment on the grounds of a change of
6 circumstances with regard to the defendant's ability to
7 pay the judgment. The court shall advise the defendant
8 of this right at the time of rendering of the judgment.

9 SEC. 150. Section 42230 of the Vehicle Code is
10 amended to read:

11 42230. Whenever any application made under this
12 code is accompanied by any fee, except an application for
13 an occupational license accompanied by a fee as specified
14 in Section 9262, 9262.5, ~~9264~~, 11309, or 11820, or an
15 application for a duplicate driver's license, as required by
16 law, and the application is refused or rejected, the fees
17 shall be returned to the applicant, except that, whenever
18 any application is made for the first set of special plates
19 under subdivision (a) of Section 9262; and the application
20 is refused or rejected, the fee for the special plates only
21 shall be returned to the applicant; or, when application is
22 made for the first set of special plates under subdivision
23 (1) of Section 9264 and the application is refused or
24 rejected, the fee for the special plates shall be returned
25 to the applicant.

26 SEC. 151. Section 10610.2 of the Water Code is
27 amended to read:

28 10610.2. The Legislature finds and declares as follows:

29 (a) The waters of the state are a limited and renewable
30 resource subject to ~~ever-increasing~~ *ever-increasing*
31 demands.

32 (b) The conservation and efficient use of urban water
33 supplies are of statewide concern; however, the planning
34 for that use and the implementation of those plans can
35 best be accomplished at the local level.

36 (c) A long-term, reliable supply of water is essential to
37 protect the productivity of California's businesses and
38 economic climate.

39 (d) As part of its long-range planning activities, every
40 urban water supplier should make every effort to ensure

1 the appropriate level of reliability in its water service
2 sufficient to meet the needs of its various categories of
3 customers during normal, dry, and multiple dry water
4 years.

5 (e) This part is intended to provide assistance to water
6 agencies in carrying out their long-term resource
7 planning responsibilities to ensure adequate water
8 supplies to meet ~~the needs of both~~ existing customers and
9 future demands for water.

10 SEC. 152. Section 10635 of the Water Code, as added
11 by Chapter 854 of the Statutes of 1995, is amended to read:

12 10635. (a) Every urban water supplier shall include,
13 as part of its urban water management plan, an
14 assessment of the reliability of its water service to its
15 customers during normal, dry, and multiple dry water
16 years. This water supply and demand assessment shall
17 compare the total water supply sources available to the
18 water supplier with the total projected water use over the
19 next 20 years, in five-year increments, for a normal water
20 year, a single dry water year, and multiple dry water
21 years. The water service reliability assessment shall be
22 based upon the information compiled pursuant to Section
23 10631, including available data from ~~the~~ state, regional, or
24 local agency population projections within the service
25 area of the urban water supplier.

26 (b) The urban water supplier shall provide that
27 portion of its urban water management plan prepared
28 pursuant to this article to any city or county within which
29 it provides water supplies ~~within~~ *no later than* 60 days ~~of~~
30 *after* the submission of its urban water management plan.

31 (c) Nothing in this article is intended to create a right
32 or entitlement to water service or any specific level of
33 water service.

34 (d) Nothing in this article is intended to change
35 existing law concerning an urban water supplier's
36 obligation to provide water service to its existing
37 customers or to any ~~future~~, potential *future* customers.

38 SEC. 153. Section 10913 of the Water Code is
39 amended to read:



1 10913. A project, for ~~the~~ purposes of this part, means
2 any of the following activities for which an application has
3 been submitted to a city or county:

4 (a) A proposed residential development of more than
5 500 dwelling units.

6 (b) A proposed shopping center or business
7 establishment employing more than 1,000 persons or
8 having more than 500,000 square feet of floor space.

9 (c) A proposed commercial office building employing
10 more than 1,000 persons or having more than 250,000
11 square feet of floor space.

12 (d) A proposed hotel or motel, or both, having more
13 than 500 rooms.

14 (e) A proposed industrial, manufacturing, or
15 processing plant, or industrial park planned to house
16 more than 1,000 persons, occupying more than 40 acres ~~or~~
17 of land, or having more than 650,000 square feet of floor
18 area.

19 (f) A mixed-use project that would demand an amount
20 of water equivalent to, or greater than, the amount of
21 water required by a 500-dwelling-unit project.

22 SEC. 154. Section 13274 of the Water Code is
23 amended to read:

24 13274. (a) (1) The state board or a regional board,
25 upon receipt of applications for waste discharge
26 requirements for discharges of dewatered, treated, or
27 chemically fixed sewage sludge and other biological
28 solids, shall prescribe general waste discharge
29 requirements for ~~those sludges that sludge~~ and *those*
30 *other* solids. General waste discharge requirements shall
31 replace individual waste discharge requirements for
32 sewage sludge and other biological solids, and their
33 prescription shall be considered to be a ministerial action.

34 (2) The general waste discharge requirements shall
35 set minimum standards for agronomic applications of
36 sewage sludge and other biological solids and the use of
37 that sludge and those other solids as a soil amendment or
38 fertilizer in agriculture, forestry, and surface mining
39 reclamation, and may permit the transportation of that
40 sludge and those other solids and the use of that sludge



1 and those other solids at more than one site. The
2 requirements shall include provisions to mitigate
3 significant environmental impacts, potential soil erosion,
4 odors, the degradation of surface water quality or fish or
5 wildlife habitat, the accidental release of hazardous
6 substances, and any potential hazard to the public health
7 or safety.

8 (b) The state board or a regional board, in prescribing
9 general waste discharge requirements pursuant to this
10 section, shall comply with Division 13 (commencing with
11 Section 21000) of the Public Resources Code and
12 guidelines adopted pursuant to that division, and shall
13 consult with the State Air Resources Board, the
14 Department of Food and Agriculture, and the California
15 Integrated Waste Management Board.

16 (c) The state board or a regional board may charge a
17 reasonable fee to cover the costs incurred by the board in
18 the administration of the application process relating to
19 the general waste discharge requirements prescribed
20 pursuant to this section.

21 (d) Notwithstanding any other provision of law,
22 except as specified in subdivisions (f) to (i), inclusive,
23 general waste discharge requirements prescribed by a
24 regional board pursuant to this section supersede
25 regulations adopted by any other state agency to regulate
26 sewage sludge and other biological solids applied directly
27 to agricultural lands at agronomic rates.

28 (e) The state board or a regional board shall review
29 general waste discharge requirements for possible
30 amendment upon the request of any state agency,
31 including, but not limited to, the Department of Food
32 and Agriculture and the State Department of Health
33 Services, if the board determines that the request is based
34 on new information.

35 (f) Nothing in this section is intended to affect the
36 jurisdiction of the California Integrated Waste
37 Management Board to regulate the handling of sewage
38 sludge or other biological solids for composting, deposit
39 in a landfill, or other use.



1 (g) Nothing in this section is intended to affect the
2 jurisdiction of the State Air Resources Board or an air
3 pollution control district or air quality management
4 district to regulate the handling of sewage sludge or other
5 biological solids for incineration.

6 (h) Nothing in this section is intended to affect the
7 jurisdiction of the Department of Food and Agriculture
8 Code in enforcing Sections 14591 and 14631 of the Food
9 and Agriculture Code and any regulations adopted
10 pursuant to those sections, regarding the handling of
11 sewage sludge and other biological solids; sold or used as
12 fertilizer or as a soil amendment.

13 (i) Nothing in this section restricts the authority of a
14 local government agency to regulate the application of
15 sewage sludge and other biological solids to land within
16 the jurisdiction of that agency, including, but not limited
17 to, the planning authority of the Delta Protection
18 Commission, the resource management plan of which is
19 required to be implemented by local government
20 general plans.

21 SEC. 155. Section 21267 of the Water Code, as added
22 by Chapter 449 of the Statutes of 1995, is amended and
23 renumbered to read:

24 ~~21267.~~

25 71267. This chapter shall remain operative only until
26 July 1, 1999, and as of January 1, 2000, is repealed, unless
27 a later enacted statute, that is enacted on or before
28 January 1, 2000, deletes or extends the dates upon which
29 the chapter becomes inoperative and is repealed.

30 SEC. 156. Section 35281 of the Water Code is
31 amended to read:

32 35281. The board of directors of the district may, by
33 a ~~4/5~~ *four-fifths* vote, at any time, establish two divisions,
34 or ~~may~~ later establish new boundaries for the two
35 divisions, within the district in accordance with this
36 chapter. If the board decides to establish divisions or new
37 boundaries for established divisions, all of the following
38 apply:

39 (a) (1) The board of directors shall by resolution
40 divide the district into two divisions.



1 (2) Notwithstanding Sections 35026 and 35027, one
 2 division shall be comprised of approximately 60 percent
 3 of the acreage of the district and the other division shall
 4 be comprised of approximately 40 percent of the acreage
 5 of the district.

6 (b) The division comprised of approximately 40
 7 percent of the acreage of the district shall have two
 8 directors. The division comprised of approximately 60
 9 percent of the acreage of the district shall have three
 10 directors.

11 (c) Each director shall be a holder of title to land
 12 within the division represented by that director, or be the
 13 legal representative of the holder of title to land within
 14 ~~the that~~ division represented. If a corporation holds title
 15 to land, the president of the corporation may serve as a
 16 director, or the ~~corporation's~~ board of directors *of the*
 17 *corporation* may select other persons who may serve as
 18 directors if written notice is provided to the district.

19 (d) After approving the establishment of two divisions
 20 or establishment of new boundaries for the two divisions,
 21 the board shall, by resolution, not less than 120 days prior
 22 to the next general district election, designate which
 23 division shall elect directors at that election to succeed
 24 the directors whose terms then expire. The remaining
 25 division shall elect directors at the general district
 26 election next following that election.

27 SEC. 157. Section 35282 of the Water Code is
 28 amended to read:

29 35282. Nothing in this chapter shall be construed as
 30 requiring the board to act by a ⁴/₅ *four-fifths* vote on any
 31 matter except as expressly provided in this chapter.

32 SEC. 158. The heading of Article 4.05 (commencing
 33 with Section 14139.05) of Chapter 7 of Part 3 of Division
 34 9 of the Welfare and Institutions Code is amended and
 35 renumbered to read:

36



1 Article ~~4.05.~~ 4.3. Long-Term Care Integration Pilot
2 Program
3

4 SEC. 159. Section 5 of Chapter 52 of the Statutes of
5 1941 is amended to read:

6 Sec. 5. General District Elections. A general district
7 election shall be held therein on the first Tuesday after
8 the first Monday ~~is~~ *in* November ~~in~~ *of* each
9 even-numbered year. At each such election members of
10 the board of directors, equal in number to the members
11 whose terms on ~~said~~ *the* board are expiring ~~thereat,~~ ~~and~~
12 upon the qualification of their successors, shall be elected
13 for the term of four years each and until each of their
14 successors have been elected and have qualified for ~~such~~
15 *that* office. All such elections shall be noticed, held, the
16 returns thereof canvassed, and the results thereof
17 declared in the manner prescribed by law for general
18 municipal elections in general law cities and by the
19 general laws so far as applicable; provided, however, that
20 the powers and duties vested in governing bodies and city
21 clerks, respectively, of general law cities, shall be vested
22 in the board of directors and secretary thereof of the
23 district.

24 At least 10 days prior to the date that candidates may
25 be nominated for the office of director, the board shall
26 publish in a newspaper of general circulation, which is
27 circulated in the district, a notice stating the manner in
28 which candidates may be nominated, the last date on
29 which nominations for director will be accepted, and that,
30 if not more than one person is nominated for each open
31 office of director, directors will be appointed by the board
32 of supervisors pursuant to this section.

33 If, on the 54th day prior to the day fixed for the district
34 general election, only one person has been nominated for
35 each office of the board of directors to be filled at that
36 election, or no one has been nominated for ~~such~~ *that*
37 office, and if on the 44th day prior to the day fixed for the
38 election, a petition signed by 5 percent of the qualified
39 electors in the district, requesting that the district general
40 election be held, has not been presented to the board of



1 directors of the district, the board of directors shall by
2 resolution entered in its minutes order that an election
3 shall not be held and shall immediately request that the
4 Board of Supervisors of the County of Monterey, at a
5 regular or special meeting held prior to the day fixed for
6 the election, appoint, and the board of supervisors shall
7 thereupon appoint, to the office or offices the person or
8 persons, if any, who have been nominated. If no person
9 has been nominated for any office, the board of
10 supervisors shall appoint any qualified person to the office
11 prior to the date when the election would have been held.
12 The person appointed shall qualify and take office and
13 serve exactly as if elected at a district general election.

14 In ~~such~~ *these* instances, notices shall be posted in three
15 public places in the district at least 10 days before the date
16 fixed for the election, ~~which notices shall state~~ *stating* that
17 no election is to be held and that the board of supervisors
18 will appoint or has appointed a person or persons to serve
19 for the ensuing term on the board of directors.

20 SEC. 160. Section 3 of Chapter 981 of the Statutes of
21 1995 is amended to read:

22 Sec. 3. (a) Section 4 of this act is enacted for the
23 purpose of assisting local law enforcement in controlling
24 prostitution-related activities and to minimize the
25 adverse effect these activities have upon local
26 communities.

27 (b) The Legislature finds and determines that
28 loitering for the purposes of engaging in a prostitution
29 offense constitutes a public nuisance which, if left
30 unabated, adversely affects a community's image, public
31 safety, and residential and business development, and
32 tends to encourage further criminal activity.
33 Furthermore, prostitution-related activities consume an
34 inordinate amount of limited law enforcement resources.

35 SEC. 161. Any section of any act enacted by the
36 Legislature during the 1996 calendar year that takes
37 effect on or before January 1, 1997, and that amends,
38 amends and renumbers, adds, repeals and adds, or repeals
39 a section that is amended, amended and renumbered,
40 repealed and added, or repealed by this act, shall prevail



1 over this act, whether that act is enacted prior to, or
2 subsequent to, the enactment of this act. The repeal, or
3 repeal and addition, of any article, chapter, part, title, or
4 division of any code by this act shall not become operative
5 if any section of any other act that is enacted by the
6 Legislature during the 1996 calendar year and takes effect
7 on or before January 1, 1997, amends, amends and
8 rennumbers, adds, repeals and adds, or repeals any section
9 contained in that article, chapter, part, title, or division.

O

